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International Court of Justice

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ERRATUM

Please note that the page numbers for the afternoon session of May 13, should read from 9510 to 9548 inclusive.

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Official transcript of the International Military Tribunal in the matter of: The United States of America, the French Republic, The United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, against Hermann Wilhelm Goering et at, Defendants, sitting at Nurnberg, Germany on 14 May 1946, 1400-1700. Lord Justice Lawrence presiding.

ADMIRAL WAGNER -- Resumed

CROSS EXAMINATION -- Continued

BY COLONEL PHILLIMORE:

Q. Do you remember the sinking of the "Monte Garbea" in September, 1942?

A. I have a certain recollection of it.

Q. That was the ship in respect of which the Defendant Doenitz sent a telegram to the U-boat Commander threatening him with court martial on his return because he had sunk the ship after recognizing it as a neutral. Now in 1942 the friendship of Spain was very important to Germany, was it not?

A. I assume so.

Q. You told us yesterday that Admiral Raeder was recommending a Mediterranean policy. Now that was the reason, wasn't it, why the U-boat Commander was threatened with court martial, that it mattered in 1942 if you sank a Spanish ship?

A. No, that was not the reason. The reason was that the Commander of the U-boat had not acted according to the directives of the Commander in Chief of the U-boats.

Q. It didn't matter in 1940 when you thought you were winning the war, but in September, 1942, I sugges to you it became politically inexpediant to sink a Spanish ship; isn't that right?

A. You will have to contact the political office of the German Reich to get that answer.

Q. If that is the answer, do you think it is unfair to describe your attitude to the sinking of neutral ships as cynical and opportunist?

A. No, I reject that completely.

Q. I want to ask you one or two questions about the witness Heisig. You spoke yesterday of a conversation in the jail here in the first week of December, 1945.

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A. December, 1945.

Q. Yes. You knew at the time you spoke to Heisig that he was going to be called as a witness, didn't you?

A. I assumed that because of his presence here at Nurnberg.

Q. And you knew you were going to be called as a witness, didn't you?

A. Yes.

Q. Are you telling the Tribunal that you didn't tell the defense lawyers about this conversation until quite recently?

A. I did not quite follow the sense of your question.

Q. Are you telling the Tribunal that you did not report this conversation with Heisig to the Defense lawyers until quite recently?

A. Perhaps in February or March it was that I told the defense counsel about this conversation.

Q. I just want to put the dates to you. The U-boat Commander Eck was sentenced to death on the 20th of October. Do you know that?

A. I did not know the date.

Q. Death sentence was taken by the Commission on the 21st of November and he was executed on the 30th of November. That is to say he was executed before you had this conversation. Did you know that?

A. No. I am just finding that out now.

Q. At any rate, the Witness Heisig knew it before he gave his evidence, didn't he?

A. Obviously. Otherwise, he most likely would have told me about it.

Q. Just listen to a question and answer from his cross examination. It si page 2676 of the transcript. This is a question by Dr. Kranzbuehler: "In your hearing on the 27th of November were you not told that the death sentence against Eck and Hoffmann had already been set?" Answer: I do not know whether it was on the 27th of November. I know only that here I was told of the fact that the death sentence had been carried out. The date I can not remember. I was in several hearings." Now if that is right --

THE PRESIDENT: When was that evidence given?

COLONEL PHILLIMORE: That was given on the 14th of January, My Lord.

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Page 2676 of the transcript.

A. I did not understand who gave this testimony.

Q. The witness Heisig, when he gave evidence here in Court. So that whether or not he was deceived, as you suggest, before he gave his affidavit, he at least knew the true facts before he gave evidence here to the Tribunal?

A. Then he told un untruth to me.

Q. Now, I want to ask you one question on the order of the 17th of September, 1942. That is the order that you say you monitored in the Naval War Staff and saw nothing wrong with. Did the Defendant Raeder see that order?

A. That I can not say with certainty.

Q. You were Chief of Staff Operations at that time?

A. Yes, but you can't expect of me that I could remember every incident which took place in six years of war.

Q. Oh, no, but this was an important order, wasn't it?

A. Certainly, but there were very many important orders in the course of six years.

Q. Would you normally show an important operational order to the Commander in Chief?

A. My task was to present to the Chief of the Staff of the Navy the important things and he decided which matters were to be presented to the Grand Admiral.

Q. Are you saying that you wouldn't have shown this to the Chief of the Staff?

A. No. I am sure he had knowledge of this.

Q. Have you any doubt that this order would have been shown to Admiral Raeder?

A. That I can not say for I do not recall.

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Q Now, I want to ask one or two questions about your tasks as Admiral Special Duties. You became Admiral Special Duties in June, 1944, is that right?

A Yes.

Q And from then on you attended the important conferences with Admiral Doenitz and in his absence represented him, did you not?

A I never participated at any discussions as his deputy. Doenitz was represenented to the Chief of the SKL.

Q Now at that stage of the war all questions were important insofar as they affected military operations in one way or another, were they not?

A In every stage of the war all military questions are of importance.

Q What I am putting to you is that at that stage of the war the importance of all questions chiefly depended on how they affected the military situation.

A That I imagine one has to admit, yes.

Q And during that period Germany was virtually governed by the decisions taken at the Fuehrer's Headquarters, wasn't it?

A Yes.

Q Now, I want you to look at a record of one of Admiral Doenitz's visits-- this is D-862, a new document, and becomes GB 456.

That is a record of a visit to the Fuehrer's Headquarters on the 28th and 29th of August, 1943. You weren't there yourself, but your immediate superior, Vice-Admiral Meisel, accompanied Admiral Doenitz, and the names of the Naval Delegation are set out at the top of the page. Admiral Doenitz, Vice Admiral Meisel, Chief of Staff of the SKL, Captain Rehm, etc. And your program as set out was: after your arrival, at half-past eleven, conversation with Commander-in-Chief of Navy, Commander-in-Chief Luftwaffe; 1300, situation conference with the Fuehrer closing with a further conversation between the Commander-in-Chief, Navy, and the Commander-in-Chief, Luftwaffe; then at 1900 the Commander-in-Chief Navy left. After that Admiral Meisel had a conversation with Ambassador Ritter of the Foreign Office. Then a conversation with General Jodl; an evening conference with the Fuehrer, and then a midnight conference with Himmler. On the next day a situation conference with the Fuehrer; then a conversation with the Chief of the General Staff of the Air Force. And then he left.

Now, is that a fair sample of what went on whenever Admiral Doenitz visited, that he had conversations, various conferences with other officials?

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A That is a typical example of a visit of the Grand Admiral at the Headquarters, and he participated in situation conferences with the Fuehrer, and on top of this he had military conversations with the Commander-in-Chief of the Luftwaffe.

Q And that shows, doesn't it, the whole business of government being carried on at the Fuehrer's Headquarters?

A No, not at all. I have already said the Grand Admiral solely and alone participated at the military situation conferences with the Fuehrer and beyond that one or two discussions with the Commander-in-Chief of the Luftwaffe. He had a conversation with him as well.

Q And with General Jodl or General Keitel, somebody from the Foreign Office, and so on?

A The Grand Admiral had no discussions like that at all. On the 28th of August at 1900 hours he returned as shown from the table, and further discussion with the Chiefs of Staff of the SKL were had.

Q But I was putting it to you that this was a typical visit. If Admiral Doenitz hadn't left, he would have had these other conversations and not Admiral Meisel, isn't that right?

A No, not at all, the Chief of Staff of the SKL had very infrequently the opportunity to come to the headquarters, and according to the minutes he obviously used his opportunity --

Q I don't want to waste time with it. I suggest to you that when Admiral Doenitz went there he normally saw any other Ministers and conversed with them on any business affecting the Navy.

A Naturally, the Grand Admiral discussed all questions which concerned the Navy and he spoke with those who were concerned with these problems.

Q Now, I want to ask you one or two questions on the minutes with regard to the Geneva Convention -- that is C-156, GB-209, page 69 of the English Prosecution Book, at page 102 of the German. Look at page 102.

Now, as you told us yesterday, you initialed those minutes, didn't you, and a copy was marked to you, isn't that right?

A I signed these minutes, yes.

Q Were they accurate?

A They contained clue words about those things which had happened at the

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headquarters.

Q They were an accurate record, were they?

A Undoubtedly, I believed that the things had taken place as I recorded them.

Q Now, did you agree with Admiral Doenitz's advice that it would be better to carry out the measures considered necessary without warning and at all costs to save face with the outer world? Did you agree with that?

A I said already yesterday and told clearly and unequivocally how the sentence which was formulated by me -- how I interpreted that, and I have nothing to add to that statement. In the sense in which I stated it yesterday, I agree with it.

Q And the step Hitler wanted to take was to put prisoners of war in the bombed towns, wasn't it? Wasn't that the breach of the Convention that he wanted to make?

A No, it was solely the renouncing of the complete Geneva Convention, not only the agreement about prisoners of war, but everything else --all agreements which had been made at Geneva.

Q Then what were the measures considered necessary which could be taken without warning? Just look at that sentence.

A I do not understand.

Q Look at the last sentence, "It would be better to carry out the measures considered necessary." What were these measures?

A We did not discuss that at all.

Q Do you see any difference between the advice which Admiral Doenitz was giving then and the advice which you described as the rather romantic ideas of a young expert on the document about sinkink without warning at night. Let me put it to you: What the naval Officer said --document C-191 --as to sinking without warning: Don't give written permission; don't tell anyone but at all costs save face with the world.

Do you see any difference?

A I already testified yesterday that the difference is very great. Grand Admiral Doenitz spoke against the renouncing of the Geneva Convention and he said if measures of intimidation or counter-measures against bombing attacks on cities are to be taken, then in any event the Geneva Convention cannot be

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renounced.

Q Now, I want to put to you a few questions about prisoners of war. So far as naval prisoners of war were concerned, they remained in the custody of the Navy, didn't they?

A I am not informed about the organization of prisoner of war camps and its system, but in my recollection they were put into atemporary navy camp; then into further camps, about which I donot know as to whether they belonged to the navy or to the OKW, and to whom they were subordinate.

Q You are looking at the defense documents about the Camp Marlek-Marlek telling us how well they were treated. Haven't you seen them?

A No.

Q Now, naval prisoners, when they were captured by your forces, their capture was reported to the Naval War Staff, wasn't it?

A In the framework of the report, yes, these captures were reported.

Q Now, do you remember the Commando Order of the 18th of October, 1942?

A Yes.

Q You actually signed the order passing that Fuehrer Order on to the commanders, didn't you?

A Yes.

COLONEL PHILLIMORE: My Lord, the document is C-179, and that was put in as United States Exhibit 543. It is in the bundle --

THE PRESIDENT: What is the number?

COLONEL PHILLIMORE: C-179.

THE PRESIDENT: Oh yes.

COLONEL PHILLIMORE: And it is in that bundle that Sir David Maxwell Fyfe handed to the Tribunal when cross-examining the defendant. I think it is either the last or very near to the last document in the bundle.

BY COLONEL PHILLIMORE:

Q Did you approve of that order?

A I regretted that one had to come to these decrees and orders, but, under No. 1, the reasons are given so clearly that I must realize and must at that time have realized its justification.

Q You knew what handing over to the SD meant, didn't you? You knew that meant shooting?

A No, that could have meant any number of things.

Q What do you think it meant?

A It could have meant that these people were to be taken over for counter-espionage; that they were to be kept prisoners among more severe measures or, perhaps, that they might be shot.

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Q But you hadn't any doubt that it meant that they might be shot, had you?

A The possibility that they might be shot is without doubt onhand and is clear.

Q Yes, and did that occur to you when you signed the order sending it on to commanders?

A I would like to refer you to No. 1 of this order, in which it said --

Q Do you mind answering the question? Did it occur to you that they might be shot when you signed the order sending it on to commanders?

A Yes, yes; the possibility was there.

DR. SIEMERS (Counsel for defendant Raeder): Mr. President, the witness was asked whether he approved of these orders. I donot believe that Colonel Phillimore can cut off the answer from the witness by saying that he may not refer to No. 1 of the order. I believe that this point 1 of the order is decisive for this witness.

Mr. President, the witness, Admiral Wagner -

THE PRESIDENT: You have an opportunity of reexamining the witness.

DR. SIEMERS: Yes.

THE PRESIDENT: Then, why do you interrupt?

DR. SIEMERS: Because Colonel Phillimore has interrupted the answer on the part of the witness and I believe in cross-examination the answer of the witness should be heard.

THE PRESIDENT: Well, the Tribunal does not agree with you.

COLONEL PHILLIMORE: My Lord, I understood him to have already made the same point that the defendant made once. I only interrupted him when he sought to make it again.

BY COLONEL PHILLIMORE:

Q I put my question once again. When you signed the order sending this document on to lower commanders, did it occur to you then that these men would probably be shot?

A The possibility that these people who were turned over to the Securit Service might be shot was clear to me.

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Q Was it also --

A I haven't finished yet. But only those people were to be given over to the Security Service who had not been captured by the Wehrmacht, Commando Division.

Q Did it also occur to you that they would be shot without trial?

A Yes, that one may conclude from the order itself.

Q And what do you mean by saying that it only referred to those not captured by the Wehrmacht? Would you look at paragraph 3.

"From now on all enemies on so-called commando missions in Europe or Africa, challenged by German troops, even if they are to all appearances soldiers in uniform or demolition troops, whether armed or unarmed, in battle or in flight, are to be slaughtered to the last man. It does not make any difference whether they are landed from ships and airplanes for their actions or whether they are dropped by parachute; even these individuals when fired should apparently be prepared to give themselves up. No pardon is to be granted them on principle. In each individual case full information is to be sent to the OKW for publication in the report of the military forces."

Are you saying it didn't refer to men captured by the military forces?

A Yes, I am maintaining that statement. The entire paragraph does not say that the men who were captured by the Wehrmacht, by the armed forces, are to be turned over to the SD, to the Security Service, and that was the question.

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Q Now, read on in the last paragraph.

"If individual members of such commandos, such as agents, saboteurs, etc., fall into thehands of the military forces by some other means, through the police in occupied territories for instance, they are to be handed over immediately to the SD."

A Yes. It is expressly stated here that only those people are to be turned over to the SD who are not captured by the Wehrmacht, but through the police, and the Wehrmacht might not have any jurisdiction on this.

Q Indeed it's not. That capture by the police is given as one possible instance. But you know, you know in practice, don't you, that there were several instances where commandos were captured by the navy and handed over to the SD under this order; don't you know that?

A No.

Q Well, let me just remind you. Would you look at the document 512-PS.

That's also in that bundle, My Lord, as United States Exhibit 546. It's the second document.

According to the last sentence of the Fuehrer Order of the 18th of October, "individual saboteurs can be spared for the time being in order to keep them for interrogation. The importance of this measure was proved in the cases of --"

Haveyou got it?

A No, I'm sorry, I haven't found the place as yet.

Q The second document in the bundle, 512-PS.

A No, I can't find that place.

Q You got it now?

A No, the text which you are quoting, Mr. Colonel, I haven't found that spot. I haven't found the text you're quoting.

May I please ask you to repeat this passage?

Q You got it?

A Yes, I have the place.

Q You just read the first sentence which I've read, and then go on to the second sentence.

"The importance of this measure was proven in the cases of Glomfjord, two-man torpedo Drontheim, and Glider Plane Stavanga, where interrogations resulted in valuable knowledge of enemy intentions."

And then it goes on to another case, the case of Gerond.

Do you say that you don't remember the two-man torpedo attack on the Tirpitz in Drontheim Fjord?

A No, No. I'm not asserting that I do not remember. I do remember it.

Q Yes. Didn't you see in the Wehrmacht communique after that attack what had happened to the man who was captured?

A At this moment I can't recall.

Q Let me just remind you. One man was captured, Robert Paul Evans, just as he was getting across the Swedish border, and he was -- that action took place in October, 1942 -- he was executed in January, 1943, on the 19th of January, 1943.

My Lord, the reference to that might be convenient as the document UK-57 which was put in as GB-64.

THE PRESIDENT: UK-57?

COLONEL PHILLIMORE: UK-57, My Lord.

BY COLONEL PHILLIMORE:

Q (Continuing) Do you say that you don't remember seeing any report of his capture or of his shooting or of his interrogation?

A No, I do believe I remember that but --

Q You now tell us you do remember. Just tell us what you remember. Do you remember seeing his capture reported?

A That I donot remember exactly; but I do remember that there was a report to the effect that such a man, a considerable time after the attack on Tirpitz, had been captured, to my knowledge, but this did not take place through the navy.

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Q Would you look at the document D-864, a sworn statement.

COLONEL PHILLIMORE: My Lord, through some error I am afraid I haven't got it here. May I just put the facts, and if necessary put the document if I can produce it in time.

BY COLONEL PHILLIMORE:

Q I suggest to you that Robert Paul Evans, after his capture, was personally interrogated by the Commander-in-Chief Navy of the Norwegian North Coast. Do you say you know nothing of that?

THE PRESIDENT: Can't you hear?

THE WITNESS: No, I didn't hear a thing. There was a disturbance on my earphones.

BY COLONEL PHILLIMORE:

Q I will put it again. Do you say that you are not aware that Robert Paul Evans was personally interrogated after his capture by the Admiral, Norwegian North Coast?

A Yes, I do maintain that I do not remember it.

Q You see, this was the first two-man torpedo attack by the British Navy against German Naval forces, wasn't it? That is so, isn't it?

A That is possible, yes.

Q No, but you must know that, don't you? You were Chief of Staff Operations at the time.

A [illegible] it was the first time.

Q [illegible]ay that the results of that important interrogation were not reported to you in the Naval War Staff?

A That was certainly reported, but I cannot remember that the Commanding Admiral in Norway did actually carry through this interrogation.

Q Did you see a report by that Admiral?

A I do not remember where this report emanated from.

Q Was it clear to you that that report was based on interrogation?

A I believe yes.

Q And you say you didn't know that this man Evans, some two months after his capture, was taken out and s[illegible]ot under the Fuehrer order?

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A Yes, I am asserting that I do not remember that.

Q I will put you anothe instance. Do you remember the Bordeaux incident in December 1942?

COLONEL PHILLIMORE: That is 526-PS, My Lord. That is also in the bundle. Ir was originally put in as United States Exhibit 502.

BY COLONEL PHILLIMORE:

Q I'm sorry; it is the Toft Fjord incident I am putting to you, 462-PS. Do you remember this incident in Toft Fjord in March 1943?

A I do remember that about this time a hostile ship was found in that fhord, yes.

Q Yes. And did you not see in the Wehrmacht Comminique "Fuehrer Order executed"?

A If it said so in the ehrmacht report, then I most certainly must have read it.

Q Have you any doubt that you knew that the men captured in that attack were shot, and that you knew it at the time?

A Obviously he seems to have been shot while he was being captured.

Q If you will look at the document:

"An enemy cutter was sighted. Cutter was blown up by the enemy. Crew, two dead men, ten prisoners."

Then look down:

"Fuehrer Order executed by SD."

That means those ten men were shot, doesn't it?

A Just a moment please. It mustmean that.

Q Yes. Now, I just put to you the document that I referred to on the Trondheim episode, D-864. This is an affidavit by a man who was in charge of the SD at Bergen and later at Trobdheim, and it is the second paragraph:

"I received the order to transfer Evans from Trondheim Missionshotel to the BDS, Oslo. This order I received by telegram or telephone from the Befehlshaber der Sicherheitspolizei and the Sd, Oslo. I cannot tell who signed the telegram or the telephone call fro m Oslo. I cannot say

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for certain to whom I passed the ler, but I think it was to Hauptsturm-fuehrer Hollack. I know that the Commander in Chief Navy of the Norwegian Northern Coast had interrogated Evans himself."

And then he goes on to deal with Evans' clothing.

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I put it to you once again: Do you say that you did not know from the Admiral Northern Coast himself that he had interrogated this man?

A Yes, I am asserting that.

Q Well, I will take you to one more incident which you knew about, as is shown by your own war diary.

Would you look at the document D-658.

COLONEL PHILLIMORE: My Lord, this document was put in as GB-229.

BY COLONEL PHILLIMORE:

Q Now, that is an extract from the SKL War Diary, isn't it?

A I have to look at this first.

Q You said yesterday that it was from the War Diary of the Naval Commander West France, but I think that was a mistak wasn't it?

A I did not give any statement as to the origin of the War Diary yesterday.

Q Just read the first sentence. I think it shows clearly it was the SKL War Diary.

"9 December 1942. The Naval Commander, West France, reports..." and then it sets out the incident. Then, the third sentence, "The Naval Commander, West France, has ordere that both soldiers be shot immediately for attempted sabotage if their interrogation which has been begun, confirms what has so far been discovered; their execution has, however, been postponed in order to obtain more information.

"According to a Wehrmacht report" -- I think that is a mistranslation -- "According to the Wehrmacht communique, both soldiers have meanwhile been shot. The measure would b in accordance with the Fuehrer's special order, but is nevertheless something new in international law, since the soldiers were in uniform."

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That is from the SKL War Diary, isn't it?

A I am of the opinion that we are not concerned with the War Diary of the SKL.

Q Well, I will get the original here and clear the matter up later, but I suggest to you that this is the SKL War Diary, which at the time --

A (Interposing): I cannot recognize the assertion unless I have the original.

Q And I suggest to you that you, who were Chief of Staff Operations at the time, must have been fully aware of that incident. Do you deny that?

A I deny it and I maintain that I do not remember this matter.

Q You say that a matter of that sort would not be reported to you?

A I have since known that the order to shoot these people was transferred from the SD and received from the Headquarters direct.

Q Now, finally, I put to you the incident of the capture of seven seamen, six of the Norwegian Navy and one of the Royal Navy, at Ulven, near Bergen in July 1943. That is Document D-649 in the Prosecution Document Book, GB-208.

Do you remember this incident? Do you remember the capture of these seven men by Admiral von Schrader with his two task forces?

A I saw this paper while I was interrogated, and that i. how I happen to remember.

Q But do you remember the incident?

A Now from my own personal experience, no.

Q You were still Chief of Staff Operations.

THE PRESIDENT: Which page?

COLONEL PHILLIMORE: My Lord, it is page 67 of the English document book, page 100 in the German.

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BY COLONEL PHILLIMORE:

Q Do you say that as Chief of Staff Operations you don't remember any of these incidents?

A I do assert and maintain what I have already said about this.

Q Didn't your commanders report when they captured an enemy commando?

A I must assume that these things were reported on.

Q Are you merely suggesting that you have forgotten all about these incidents now?

A In all of my testimony I always strictly adhere to that which I personally remember.

Q Do you know what happened to these men? You know they were captured in uniform, don't you? There was a naval officer with gold braid around his arm. That is a badge you use in the

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German Navy, isn't it?

A. I have already said that I do not recall this matter.

Q. Well, let me just tell you and remind you. After interrogation by naval officers and officers of the SD, both of whom recommended prisoner of war treatment, these men were handed over by the Navy to the SD for shooting. They were taken to a concentration camp, and at 4 o'clock in the morning they were led out one by one, blindfolded, fettered, not told they were going to be shot, and shot one by one on the rifle range.

Don't you know that?

A. No.

Q. Didn't you know that is what handing over to the SD meant?

A. I have already stated that the giving over to the SD might have brought with it several possibilities.

Q. Do you know that then their bodies were sunk in the fjord with charges attached, and destroyed, as it says in the document, "in the usual way"? Paragraph 10 of the affidavit. And their belongings in the concentration camp were burned.

A. No, I know nothing about that.

Q. Very well. A further point: Do you remember that in March or April 1945, at the very end of the war, this order, the Fuehrer Order, was canceled by Keitel.

COLONEL PHILLIMORE: That is paragraph 11 of the affidavit, My Lord.

Q. Do you remember that? Just read it.

A. Yes, I have heard of that.

Q. Yes. You thought you were losing the war by then, and you had better cancel the Commando Order, isn't that the fact?

A. I do not know just what reasons were given by the OKW for rescinding this order.

Q. Isn't this right: You didn't worry about this order in 1942 when you thought you were winning the war, but when you found you were losing it, you began to worry about international law. Isn't that what happened.

A. No. I would like to refer to No. 1 of the Commando Order. It says

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clearly and unequivocally that they had orders that these commandos were made up of criminal elements of the occupied territories, that they had orders to kill prisoners whom they found detrimental, that other commandos had orders to kill captives, and that orders to this effect had fallen into our hands.

Q. Did you ever make any inquiries to see whether that was true?

A. It is absolutely impossible for me to investigate official notices which I receive from my superiors.

Q. You were Chief of Staff Operations; you received every report on the commando raids, didn't you?

A. In each case I was interrogated and I testified, but I cannot remember the details.

Q. When you were Chief of Staff Operations, did you not receive a full report every time there was a British commando raid?

A. I have already said that I believe that even such reports were made to the SKL in the course of routine conferences.

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Q I suggest you can answer that question perfectly straight if you wanted to. Here you were a senior staff officer, commando raids. Are you saying you didn't personally see and read a full report of evety one?

A I am not stating that. I answered each individual question, just wh I remember about it.

Q Do you say that taking these men out and shooting them without a trial, without telling them they were going to be shot, without seeing a priest, do you say that ---

A About the navy?

Q Do you say that wasn't murder?

A I do not wish to maintain that at all. I do maintain and assert that these cases in which men were shot by the navy, I most likely did receive knowledge of those cases, and I am of the opinion that these people which were captured as saboteurs were not soldiers but they were criminals and --

Q Let us get it perfectly clear. Are you saying that the action taken in shooting these commandos on all these occasions, are you saying that was perfectly proper and justified? I thought you agreed with me it was murder, just n Which is it?

A I would like to answer the case individually.

Q It is a very simple question to answer generally and it takes less time. Do you say that men captured in uniform should be taken out and shot without trial?

A Men about whom I know, that they have orders to carry out crimes, I cannot consider them as soldiers and soldiers within international law.

Q Are you saying that this action was perfectly proper -- are you?

A Yes; in toto, yes.

Q Shoot helpless prisoners without trial, and bully neutrals who can't complain? That is your policy, is it?

A Not at all.

Q What crime did Robert Paul Evans commit, who attacked the Tirpitz in a two-man torpedo?

A I am of the opinion and I am convinced that it was proved that he belonged to a sabotage group and that besides the regular navy attack on the shi

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other aspects were present which marked him as a saboteur.

Q You said just now that you didn't remember the incident?

A Yes, I assume that.

Q Will you agree on this, will you agree with me, that if this shooting by the SD was murder, you and Admiral Doenitz and Admiral Raeder, who signed the orders under which this was done, are just as guilty as the men who shot them?

A Responsible for the order is that person who issued the order.

Q And that person who passed it on approved it; isn't that right?

A I assume the full responsibility for the transmission of this order.

COLONEL PHILLIMORE: Your Lordship, I have no further questions.

THE PRESIDENT: Colonel Phillimore, D-658 was an old exhibit, was it not?

COLONEL PHILLIMORE: Yes my Lord.

THE PRESIDENT: Have you given new exhibit numbers to all the new documer

COLONEL PHILLIMORE: I am very much obliged, your Lordship. I did omit to give a new exhibit number to the affidavit by Flesch.

THE PRESIDENT: D-864.

COLONEL PHILLIMORE: D-864. It should be GB 457. My Lord, I am very sorry I wasn't advised, but I get it.

THE PRESIDENT: And all the others, youhhave given numbers to?

COLONEL PHILLIMORE: Yes, my Lord.

THE PRESIDENT: Very well. Is there any other cross examination? Then, doe Dr. Kranzbuehler wish to re-examine? Dr. Kranzbuehler, I see it is nearly half-past eleven so I think we better adjourn for ten minutes.

(A recess was taken.)

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THE PRESIDENT: Before Dr. Kranzbuehler goes on with his re-examination, I shall announce the Tribunal's decisions with reference to the applications which were made recently in court.

The first application on behalf of the defendant von Schirach was for a witness Hans Marsaleck to be produced for cross-examination, and that application is granted.

The next matter was an application on behalf of the defendant Hess for 5 documents; and as to that, the Tribunal orders that two of the documents applied for under heads B and D in Dr. Seidl's application have already been published in the Reichsgesetzblatt, and one of them is already in evidence. They will, therefore, be admitted.

The Tribunal considers that the documents applied for under heads C and E of Dr. Seidl's application are unsatisfactory and have no evidencial value; and since it does not appear from Dr. Seidl's application and the matters referred to therein that the alleged copies are copies of any original documents, the application is denied in respect thereof. But leave is granted to Dr. Seidl to file a further affidavit by Gauss covering his recollection of what was in the alleged agreement.

The application on behalf of the defendant Funk for an affidavit by a witness called Kallus is granted.

The application on behalf of the defendant Streicher is denied.

The applications on behalf of the defendant Sauckel, firstly for a witness named Biedermann is granted, and secondly for 4 documents, is also granted.

The application on behalf of the defendant Seyss-Inquart for an interrogatory to Dr. Stuckart is granted.

The application on behalf of the defendant Frick is granted for an interrogatory to a witness, Dr. Conrad.

The application on behalf of the defendant Goering with reference to two witnesses is granted, in the sense that the witness are to be alerted.

The application on behalf of the defendant Hess and Frank for official information from the Department of War of the United States of America is denied.

That is all.

H0131-0026

DR. KRANZBUEHLER: Admiral Wagner, I want to put another question to you regarding the Commando Order.

Were the Navy Command Staff in any way participating in the carrying out of that order?

A No, in no way.

Q Did you in the Naval Command staff have the possibilities either before or when the order was drafted to investigate whether the basis on which it was put was correct? Those details, I mean which are used on page 2 of the order?

A No, such a possibility did not exist.

Q The document of a man has just been introduced in this court room, who had attacked the battleship Tirpitz with a two-man torpedo. This happened in October, 1942. Did you know that one year later, in the autumn of 1943 there was a renewed attack by means of a two-man torpedo on the battleship Tirpitz, and that the British sailors who were captured on that occasion were treated in accordance with the Geneva Convention by the Navy who had captured them?

A The second attack on the Tirpitz is known to me. The treatment afforded the prisoners is something I don't recollect.

Q You had mentioned that possibly the Naval Command Staff had received reports regarding the statements made by crews participating in Commando actions. In connection with these reports, what exactly were the Naval Command Staff interested in, the question of operations or questions relating to the fate of these people personally?

A Naturally we were interested in the tactical and operational problems so that we could collect experiences and draw our conclusions from them.

Q Can you remember any concrete example where you might have seen such a report?

A No.

Q Just now a document is being shown to you which deals with the treatment given the Commando troop captured in the Fjord in Norway. It is No. 526 PS. Have you still got that document there?

H0131-0027

A Some document is still here. It is quite possible.

Q Please, will you have alook at that document?

A May I ask you to give me the number again?

Q It's number is 526 PS, and on the 4th page of the Book which the Prosecution has given me you will find the passage which I am referring to? Have you got the document now?

A No, not yet. Did you say 526?

Q Yes, 526 PS. I am sending it up to you.

A No, I haven't got it.

Q In the third paragraph you will find an indication that this party were carrying one thousand kilograms of explosives, is that correct?

A Yes sir.

Q Did you understand my question?

A I answered "yes".

Q I am sorry. I didn't hear you. In the fifth paragraph you will find that the Commando party had sabotage directions against naval bases, troup accommodations and bridges, and that organization for further sabotage should be created, is that correct?

A Yes.

Q Did these have anything to do with the Navy?

A No.

Q Can you see any clue in the whole document regarding the fact that the Navy had anything to do with the composition of this party or its treatment later on?

A No, this matter does not contain any such clue.

Q You were asked this morning about the case of the Monte Garbea, an order of a court martial against the Commander was referred to and the Supreme Commander of the Navy, Admiral Raeder, had at that time sent a wireless message to the Commander. That message is in Document Doenitz 78, in Document Book 4, on page 230. I shall read that wireless message to you:

"The Supreme Commander has personally and expressly renewed his article to ships. All U-boat Commanders must adhere strictly to the treatment regarding neutral ships. Any infringement of these orders would have

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considerable political effect. The order is to be communicated to all Commanders immediately."

Can you see in that order any limitation to Spanish ships?

A No, because it isn't contained in it.

Q I shall now hand you a document which was used yesterday, D-807. This deals with notes to the Norwegian Government regarding the sinking of several steamers. Please, will you tell me whether there are any indications at all in this document showing that the letters drafted in the Supreme Command of the Navy were in fact sent, or whether they were merely drafts of letters, of which you cannot ascertain whether in fact they were ever sent

A Since there are no initials or signatures on both of these letters, these may be drafts. Proof that they were actually sent is not at any rate contained in this letter.

THE PRESIDENT: Can you give us the page number?

DR. KRANZBUEHLER: It was submitted yesterday, Mr. President. It isn't in any document book.

THE PRESIDENT: Yes, I see.

DR. KRANZBUEHLER: I now read to you the first sentence from yet another document which was put to you yesterday. Its number is D-846. It deals with a conference between the German Ambassador to Denmark and the King, on the 26 December, 1939. I shall read the first sentence to you:

"Sinking of British and Finnish ships by our submarines have caused considerable concern here because of the Danish food transport to Great Britain."

Does this report give any indication to the effect that these were sinkings without warning, or were these sinkings in accordance with the apprised ordinance, that is to say, if they were stopped and searched?

A The sentence which you have just read does not show any such indication, doesn't show in which area these ships were sunk. As far as I

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remember the document from yesterday, the whole document does not contain anything regarding the type of sinkings,so that it must be assumed as a matter of course that the ships were sunk in accordance with the apprised ordinance.

Q You were asked yesterday whether you knew the German note of 24 November 1943, I think, and whether you considered it a fair warning for the endangered sea areas, and you answered the question in the affirmative, isn't that right?

A Yes.

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Q. And then you were asked whether the neutrals were being deceived by us and you answered that question by saying no. This answer of yours, this no, did that apply to the previous question regarding the warning applying to certain areas of the sea, or did it refer to all those political measures used by the German Government against neutral states so as to deceive them about our own political intentions?

A. The answer, because of the entire context of the questioning, applied to the previous questions which had been asked about the timely warning of neutrals and particularly warnings against our measures which we adopted on the seas.

Q. I want to clarify this point very accurately. Do you have any doubt whatever that the pretext of mines in the operational zones around the British Coast was not only serving the purpose of serving the enemy defense but that it was also serving political purposes so that England tried to deceive the neutrals about the means we were applying?

A. Yes, I emphatically confirm this double purpose.

Q. Do you have any doubt whatever that the German Government denied before neutral governments that certain ships had been subk by submarines, although they had in fact been sunk by submarines?

A. Yes. Or rather, no. I have no doubt that such measures were adopted. In the form of a denenti in the general political type of measure which would be employed according to its suitability.

Q. Yesterday you admitted the possibility that Admiral Doenitz as the Chief of Submarines may have heard from the Naval Command Staff on the matter of political measures that were being dealt with which had been caused by submarines. After you have carefully examined your own recollection, can you name a single case where he has in fact received such information from the Naval Command Staff regarding the political measures adopted?

A. No. No such case I can remember.

DR. KRANZBUEHLER:

I have no further questions.

DR. WALTER SIEMERS: Dr. Siemers, for Grand Admiral Raeder.

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BY DR. SIEMERS:

Q. Admiral, you have talked about the purpose for this commando order as far as the Naval Command Staff is concerned and you clarified it by drawing to attention Hitler's clear statements; Hitler who had said that he had orders at his disposal according to which prisoners were to be killed. These were enemy orders. In connection with this commando order Colonel Phillimore in great detail dealt with the case of the British sailor Evans. In my opinion that ca has not up to now been clarified. Colonel Phillimore was talking about the murder of a soldier. I think that in spite of the excellence of the documents, the Prosecution are making mistakes about the facts and about the legal situatio and I am asking you therefore once more to look at Document D-864.

DR. SIEMERS: Mr. President, that is GB-457 submitted by Colonel Phillimorr

THE WITNESS: I have no more documents here.

BY DR. SIEMERS:

Q. This is an affidavit from Gerhard Flesch. The Prosecution read a sentence to you saying that the commanding Admiral on the Norther Coast of Norway had interrogated Evans personally. Admiral Wagner, does that sentence show that Evans was a prisoner of the Navy?

A. No.

Q. What was the situation? After you have read the Flesch affidavit, please, will you clarify that?

A. According to the second paragraph of that affidavit, Evans must be in the hands of the SD.

Q. That is right.

DR. SIEMERS: And Mr. President, I supplement that by saying that at the beginning of the affidavit Flesch is stating that he is the Commander of the Security Police. The Security Police had captured Evans and Evans was a prisoner of the SD.

BY DR. SIEMERS:

Q. Is it correct, therefore, that the British sailor Evans was merely brought before the Admiral in Norway for the sole purpose of being interrogated?

A. No doubt that is the case.

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Q And the only reason why the Admiral was interested in that interrogation was because this was an attack on the Tirpitz; he was therefore interested in hearing the facts regarding how this attempt was made. Is that correct? Do I see that right?

A Yes.

Q May I please ask you to look at D. 864, this affidavit, and look at the following paragraph. There it says regarding Evans' clothes, and I quote:

"It is not known to me that Evans wore a uniform. As far as I can remember, he was wearing blue over-alls."

Does this mean that Evans was not recognizable as a soldier?

A Well, apparently not so, no.

Q Please, will you pass on to the document X submited by Colonel Phillimore the number of which is U.K. 57.

DR. SIEMERS: Mr. President, I have the X G.B. Number 164 before me. Apparently it is in the original document book but I think it has been newly submitted today.

THE PRESIDENT: What is the number?

DR. SIEMERS: U.K.57, G.B.164.

BY DR. SIEMERS:

Q You have a photostat copy, haven't you?

A Yes.

Q Please, will you look at the fourth page. just get the question; Is it possible that this document was known to the Naval Command Staff? Does the document show that it was sent to the Naval Command Staff?

A This is an internee billets of the OKW. As far as I can see, apparently it was not sent to the Naval Command Staff.

Q So if I understand it correctly then, this is the document of intelligence of the OKW, isn't it?

A Yes. That is right.

Q Under Figure 2 it says "attempted attack on the Tirpitz," and the first part was read by Colonel Phillimore:

"Three Englishmen and two Norwegians were captured on the Swedish frontier."

Can you assume on the strength of that that they were apprehended by the police?

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A Not the armed force. Presumably that, but it isn't certain. They were certainly not apprehended by the Navy but probably by the police who were looking after the frontier, so far as I know.

Q Don't you think, Admiral, it is certain, not only probable, if you think back, that the Commander of the Security Police brought Evans from the frontier to Oslo?

A If you compare the two, then it seems, in my opinion, to be certain, yes. And I don't think there is any doubt of it, either.

Q Please, will you then look at the following sentence.

DR. SIEMERS: Mr. President, that is under Figure 2 and it is the last sentence in the first paragraph.

BY DR. SIEMERS:

Q I quote; "It was only possible to arrest the British sailor Evans who was in civilian clothes. The others escaped into Sweden."

Can't we assume with certainty that Evans was not recognizable as a soldier'

A Yes. No doubt.

Q Then, please, will you look at the following sentence, Witness. There it says, and I quote:

"Evans had a pistol holster as it is used in carrying weapons under the shoulder, and he had a knuckle duster."

SIR DAVID MAXWELL-FYFE: My Lord, there is nothing about civilian clothes in the English copy. I don't want to make a bad point, but it is not in my copy.

THE PRESIDENT: I am afraid I haven't got the document before me.

SIR DAVID MAXWELL-FYFE: My Lord, the English copy that I have simply says, "However, only the British seaman, Robert Paul Evans, born 14 January 1922, at London, could be arrested. The others escaped into Sweden."

My Lord, it canbe checked afterwards.

THE PRESIDENT: What is the exact reference to the document?

SIR DAVID MAXWELL-FYFE: My Lord, that was document UK-57, and it is a report of the OKW, Office for Auslands Abwehr, of the 4th of January, 1944.

THE PRESIDENT: Did Colonel Phillimore put it in this morning?

SIR DAVID MAXWELL-FYFE: I put it in, My Lord, certainly, in cross-examining the defendant Keitel. It has been in before, My Lord.

THE PRESIDENT: I see, it has already been put in with thislot.

DR. SIEMERS: I should be most grateful to the Tribunal if themistake could be rectified in the English translation. The German photostatic copy of the original is available, and I presume that its wording must be the correct one.

BY DR. SIEMERS:

Q Witness, we were just talking about the sentence, and I quote, "Evans was in possession of a revolver holster as issued for wearing arms under the shoulder, and he had a knuckle-duster."

What does this showin connection with the fact that he was wearing civilian clothes?

A It shows --

DR. SIEMERS: Sir David has just asked me to read the next sentence too: "Acts of force against international law could not be proved against him. Evans made detailed statements regarding the action and, on the 19th of January, 1943, in accordance with the Fuehrer order, he was shot."

BY DR. SIEMERS:

Q What does this show to you, considering the fact that Evans was wearing civilian clothes? Does it show that he did not act as a soldier would act and should act in enemy territory?

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THE PRESIDENT: Just a moment. The Tribunal considers that that is a question of law which the Tribunal has got to decide, and not a question for the witness.

DR. SIEMERS: Very well, in that case I shall forego having it answered.

BY DR. SIEMERS:

Q May I ask you to look at the following page of the document? That is a similar case, and I want you to look at it.

You have already clarified the case which happened at Bordeaux, by saying that the Naval Command Staff were not informed about it. I now draw your attention to the sentence which you will find at the bottom of page 3, and I quote:

"After the explosives were used, the boats were sunk and the men tried to escape into Spain, with the help of the French civilian population."

The men concerned there too — did they not act differently from the way soldiers should?

A That, in accordance with this document, is perfectly clear.

Q And now, one last question.

At the end of his cross-examination Colonel Phillimore asked you whether Grand Admiral Raeder and Grand Admiral Doenitz were considered by you to be guilty in this case, as he called it, of murder. Now that we have clarified the cases further, I should like you to answer the question again.

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A I consider that neither of the two Grand Admirals are in any way guilty.

DR. SIEMERS: I have no further questions.

DR. LATERNSER: I have a few questions concerning the Commando Order.

BY DR. LATERNSER:

Q Admiral, during cross-examination you explained your views regarding this Commando Order. I wanted to ask you concerning your views regarding this Commando Order. Did you base your attitude on the assumption that as far as the international justification of the order was concerned--that is, whether or not it was investigated by the department concerned?

A Yes, and I assumed that the justification for the order was investigated by the superior department.

Q Furthermore, during cross-examination you had stated what your conceptions were regarding the handing over of a man to the SD. I wanted to ask you, did you have that conception at that time, or is this something which has only now arisen, now, when you have a certain amount of material at your disposal?

A There is no doubt that after having seen a great deal of material, that conception of mine was considerably influenced.

Q Did you have the certain conception at that time that the handing over of a man to the SD meant certain death?

A No, I certainly did not have that conception at the time.

Q Now a few questions regarding the equipment of the commando troops.

Don't you know that in the case of some of the members of these troops, when the case was investigated, it was found that they had automatic arms and that, in particular, they were carrying pistols in such a manner that if the man would raise his arms in the event of capture, why that movement would automatically fire a shot, which would then hit the man who was standing opposite the man who was raising his hands? Do you know anything about that?

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A Yes, I have heard about it.

Q Didn't you see some pictures?

A At the moment I can't remember that I have.

Q Did Germany also organize sabotage actions in enemy countries?

THE PRESIDENT: What has that got to do with it, Dr. Laternser?

DR. LATERNSER: I wanted to ascertain by this question whether the witness had knowledge of our own sabotage actions, and then I wanted to ask him whether he had seen reports about the treatment of our own sabotage troops.

THE PRESIDENT: That is the very thing which we have already ruled cannot be put.

You aren't suggesting that these actions were taken by way of reprisal for the way in which German sabotage units were treated? We are not trying whether any other powers have committed breaches of international law, or crimes against humanity, or war crimes; we are trying whether these defendants have.

The Tribunal has ruled that such questions cannot be put.

DR. LATERNSER: Mr. President, I don't know which answer the witness is going to give, and since I don't know it---

THE PRESIDENT: We wanted to know why you were putting the question. You said you were putting the question in order to ascertain whether German sabotage units had been treated in a way which was contrary to international law, or words to that effect. That is a matter which is irrelevant.

DR. LATERNSER: But Mr. President, it would show, at least, that the international law poin of view

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applicable to such commando troops may have been in doubt, and that would have had a certain influence on the legislation being referred to and employed.

THE PRESIDENT: The Tribunal rules that the question is inadmissible.

BY DR. LATERNSER:

Q Witness, you have stated, during your cross-examination, that until 1944 you were the chief of the operations department of the Naval Command Staff. Can you tell me anything regarding whether there weren't considerable German naval forces in the Black Sea, or whether there were transport ships?

A There were very few transports and naval ships in the Black Sea.

Q What were they needed for mostly?

A For our own replacements and their safety.

THE PRESIDENT: How does this arise out of the cross-examination? You are re-examining now, and you are only entitled to ask questions which arise out of the cross-examination. There have been no questions put with reference to the Black Sea.

DR. LATERNSER: Mr. President, during the examination I have discovered that for some considerable time the witness was to keep up the operational staff. I have gathered from that fact that he is one of the few witnesses who can give me information regarding the possibility of a very severe and serious accusation raised by the British prosecution, and that is the accusation that 144,000 people had been transferred to German ships, and that at Sebastopol those ships had gone to sea and were blown up, whereby the prisoners of war in the ships were drowned. To some extent this witness could clarify this question for me.

THE PRESIDENT: Dr. Laternser, you knew directly this witness began his evidence, what his position was, and you, therefore, could have cross-examined him yourself at the proper time. You are now re-examining, and because we cannot have the time of the Court wasted, you are only entitled to ask him questions which arise out of the cross-examination. In the opinion of the Tribunal, this question does not arise out of the cross-examination.

DR. LATERNSER: Mr. President, please, would you, as an exception permit me?

THE PRESIDENT: No, Dr. Laternser, the Tribunal has given you great latitude and we cannot continue to do so.

THE The Tribunal will now adjourn.

(A recess was taken until 1400 hours.)

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Official transcript of the International Military Tribunal in the matter of: The United States of America, the French Republic, the United Kingdom of Great Britain and Northen Ireland, and the Union of Soviet Socialist Republics, against Herman Wilhlem Goering et al, Defendants, sitting at Nurnberg, Germany on 14 May, 1946, 1400 1700, Lord Justice Lawrence presiding.

THE PRESIDENT: You have finished, have you not, Dr. Kranzbuehler, with this witness?

DR. KRANZBUEHLER: Yes.

THE PRESIDENT: The witness can retire.

DR. KRANZBUEHLER: And now I should like to call my next witness, Eberhard Godt.

EBERHARD GODT, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q Will you state your full name?

A My name is Eberhard Godt.

Q Will you repeat this oath after me:

I swear by God Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath)

Q You may sit down.

DIRECT EXAMINATION

BY DR. KRANZBUEHLER:

Q Admiral Godt, when did you enter the Navy as an officer cadet?

A On the first of July 1918.

Q Since when have you been working together with Admiral Doenitz and in which positions?

A Since January 1938; first of all a first general staff officer attache to the chief of the submarines and shortly after the beginning of the war as chi of the operations department.

Q Chief of the operations department attached to the head of submarines?

A Yes, attached to the head of submarines and later the commander of submarines

Q Were you since 1938 participating in all operations orders issued

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through the staff of the commander of submarines?

A Yes.

Q How many officers did that staff consist of?

A At the beginning of the war that staff was increased from three to four officers. There was one military officer and two administrative officers.

Q I shall now show you document GB 83. It is contained in the document book of the Prosecution on page 16 and it is a letter from the commander of submarines, dated the first of October 1939. It refers to bases in Norway and the date is 9 October How did this letter come about?

(witness handed document)

A At that time I had visited the naval command staff in Berlin on some other matter. On the occasion of that visit I was asked whether the flag officer of submarines was interested in

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bases in Norway and which demands he might be making in that connection.

Q Were you informed in which manner those bases in Norway should be secured for the use of the German Navy?

A No.

Q The Prosecution have quoted an extract from a Naval War Diary of the Naval Command staff which originates from the same period.

DR. KRANZBUEHLER: I am thinking of the extract, Mr. President, which is contained on page 15 of the document book.

BY DR. KRANZBUEHLER:

Q That extract contains four questions and the questions (a) and (d) deal with technical details regarding these bases in Norway whereas (b) and (c) deal with the possibility as to whether such bases can under circumstances be obtained against the will of the Norwegians and how they might be defended.

Which of these questions were put to you?

A May I ask you to repeat the questions in detail first of all.

Q The first question is, what place in Norway can be considered as bases?

A That question was not put to me.

THE PRESIDENT: Witness, will you make a pause between the question and your answer so that the interpreters can deal with it.

BY DR. KRANZBUEHLER:

Q I shall repeat the question.

Which places in Norway can be considered as Bases?

A That question was put.

Q Will you show me in the letter of the flag officer of submarines -- that is, whether the question was answered and where it is answered?

A The question was answered under number 1 (c).

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Q There it says the places in question are Trontheim and Narvik.

A Yes, that is right.

Q Question No. 2 is: "Can bases be gained by military force against Norway's will if it is impossible to carry this out without fighting?" Was that question put to you?

A No.

Q Can you tell me whether the reply was in the letter from the Flag Officer Submarines?

A No, that question was not answered.

Q The third question is: "What are the possibilities of defense after the occupation?" Was that question put to you?

A No, that question was not put.

Q Is it replied to in the letter?

A Under 3-D the necessity to adopt defense measures is referred to.

Q Is that connected with the fourth question which will be put to you now: "Will the harbors have to be developed completely as bases or have they already advantages suitable for supply positions?"

A These two questions are not connected.

Q Was that fourth question put to you?

A Yes.

Q Was it answered?

A No, not in this letter.

Q What are the figures Roman II and III, what do they mean?

Answer the question whether these ports should be extended or whether they can be used as supply points now.

A Answer the question regarding what measures would be necessary to extend these bases?

Q Please will you read the last sentence of the document? There it says: "Establishment of the possibility of supplying fuel in Narvik as an alternative." Isn't that the answer to the question whether a supply point is enough?

A Yes; I had overlooked that sentence.

Q Can I summarize, therefore, by saying that the first and fourth

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question had been put to you and that you had answered them, whereas question 2 and 3 were not put nor answered?

A Yes.

Q In the War Diary of the Naval Command Staff there is a remark which says: "Flag Officer Submarines considers such ports suitable for temporary harbors and for supplying purposes and considers them very valuable for Atlantic submarines." Is the meaning of that remark that Admiral Doenitz had dealt with this question before your visit to Berlin or what is the cause for that remark?

A That was my own opinion which I had stated in my capacity as Chief of the Operations Department.

Q Were considerations regarding bases appearing for the first time just then and did they come to you for the first time?

A No. We had dealt with the question of whether, in Iceland, for instance, an improvement of the supply position for U-boats might be brought about.

Q Were these considerations in any way connected with the question whether one ought to start a war against the country concerned?

A No.

Q I shall now show you the document GB-91. This appears on page 18 of the Document Book of the prosecution. It is the operations order of the Flag Officer of U-boats dated the 30th of March, 1940, and it deals with the action against Norway. Is that true, that this is your operations order?

A Yes.

Q How many days before the beginning of the action did that order come out?

A Approximately ten days.

Q You can see under Roman I Volume 4, there is a sentence which says: "The naval forces, when going into harbor and until the landing of troops, will probably meet the British fleet off Norway." That is Roman II, isn't it - I beg your pardon. "They will fly the British flag until the troops have landed except presumably at Narvik." Are we here concerned with an order from the Flag Officer for U-boats to the vessels under his command?

A No. That paragraph appears under the heading about our own combat forces.

Q And what is the meaning of this statement?

A It means that submarines had been informed that under

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certain circumstances our own ships might be flying other flags.

Q And for what purpose was this necessary?

A It was necessary so as to prevent any muddle if at all possible.

Q Was the question of such mistakes referred to elsewhere in that order?

A Yes.

Q Where?

A Under figure Roman IV, V.

Q Please, will you read it?

A There it says: "Beware of mistaking our own and enemy forces."

Q Only that sentence. Did the submarines receive in this order the task to attack Norwegian forces?

A No.

Q Will you please show, by means of this order, what has been said about that?

A Under Roman IV, A-2, it states: "Only attack enemy transports and forces."

Q What were enemies?

A British, French and Russian -- no, I beg your pardon, not that. It also says: "No attack on Norwegian and Danish forces without order unless they attack our own forces."

Q Please, will you compare the Figure C under Roman VI?

A Under Roman VI-C, it says: "Steamers may be attacked only when they have been ascertained indisputably as enemy and as troop transport."

Q Did the Flag Officer Submarines receive information regarding the way political incidents were to be dealt with, or incidents which might have been caused by submarines?

A Yes.

Q In what way?

A It had been ordered that in the case of incidents submarines were to make an immediate wireless report and that that report was later on to be supplemented.

Q I don't think you quite understood my question. I asked you, did the Flag Officer Submarines receive information as to how an incident caused by a submarine would later on be settled before a neutral government?

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A No. Generally speaking, no.

Q Can you remember any individual case where he was informed?

A I remember the case of the Spanish steamer "Monte Garbea". Later on I understood that Spain had been granted replacements and refunds for the damage they had suffered. I can't remember nowwhether that was official information or whether I just happened to have heard it.

Q I should now like to discuss the dates of certain orders with you which I have already presented to the Tribunal. I shall show you the Standing Order 171. This is on page 159 in Vol. 3 of the document book. What is the date of origin of that order?

A I shall have to look at it first.

Q Please do.

H0131-0046

Q. Please do.

A. That order must have originated in the winter of 1939-1940. Probably 1939.

Q. How do you come to that conclusion?

A. I come to that conclusion because under 4-A there is a remark regarding equipment for water bogs which was later on regarded as a general matter of fact. I also gather it from something which is mentioned under 5-B regarding the transfer of masks and lamps, something which was stated for the first time just then.

Q. Can you tell us more exactly which month in 1939 this might have been issued?

A. I assume that it happened in November.

Q. I now submit to you another order, Standing War Order 122. It appears on page 226 in the fourth volume of my document book. Up to now all we know is that this order appeared before May, 1940. Can you tell us more exactly when it appeared?

A. The order must have been issued roughly at the same time as the first, that is to say, roughly November, 1939.

Q. Thank you very much. How in practice was the conduct of the submarine warfare by the Supreme Commander of Submarines carried out? Will you explain that to us?

A. All orders which were based on the questions of international law or some such other problems came from the Naval Command Staff. The Naval Command Staff had also reserved to themselves the right in really important large-scale decisions such as, for instance, distribution of submarines in the Atlanti Theatre, the Mediterranean Theatre, and other Theatres. Within these various Theatres the Commandant of Submarines had, generally speaking, complete freedom regarding the use and employment of his boats.

Q. Were the principal orders for submarines given in wirting or verbally?

A. In writing.

Q. Weren't there also verbal orders?

A. The verbal, oral and personal command by the flag officer of submarines

H0131-0047

played a certain special part. It extended to personal influence brought to bear on commanders, as well as explanation of such matters as were contained in written orders.

Q. On what occasions did that personal influencing take place?

A. In particular when reports were being made by the Commanders after each action they had been in. I think there were only a few commanders who did not report in person to the flag officer after they had been in action, and they reported in great detail.

Q. Was it accordingly possible that written orders might have been altered and in fact reversed orally?

A. Maybe that possibility did exist, but it didn't happen.

Q. During their personal reports was it possible that commanders might have stated an opinion different from that told them by the Supreme Commander?

A. Yes. Perfectly. In fact the flag officer did expressly demand the personal opinion from his commanders in each case so that he could maintain immediate personal contact with the commanders and so that he was in close contact with the experience had in action, and that he might be able to rectify matters which needed rectifying.

Q. This personal type of leadership, was that used so that certain matters might have been ordered verbally?

A. No. It is the view of the Prosecution that there was an order, apparently a spoken order, according to which any measures involving provisions of international law should not be entered in the log books. Was there such a general order of that type?

A. No; no general order of that type existed. In certain individual cases -- and I can remember two -- an order was given that certain matters were to be omitted from the logs.

Q. Which cases do you remember?

A. First of all, there was the case of the Athenia, and secondly, the sinking of a German boat which was coming through the blockade from Japan, sunk by a German submarine.

Q. Before I ask you about that in detail, I should like to know just what

H0131 - 0048

the reason was that such matters were to be left out of the logs.

A. The reason was to keep them secret. Logs of submarines were circulating amongst a large circle, that is to say, first of all in the training depots of the submarine department, and secondly, in a number of departments in the Supreme Command. It was necessary, therefore, that particular attention be paid to secrecy.

Q. How many copies of a log book of a submarine were being made?

A. I should say six to eight copies.

Q. Did the omission or removal of such an item from the log signify that all documents were destroyed everywhere or were there certain departments or staffs who would retain the document referring to that case.

A. The documents were presumably retained by the flag officer, submarines, and very probably the Supreme Command of the Navy.

Q. Was there a standing war order regarding the treatment of incidents?

A. Yes.

Q. What did it state?

A. It was ordered therein that immediate wireless reports would be furnished about such incidents, and that later on, that report must be supplemented either in writing or orally.

Q. Does this standing order contain indication that such incidents were not to be entered in the logs?

A. No.

Q. Will you now describe to me, please, just how such an alteration of the log book was carried out in the case of the Athenia?

A. In the case of the Athenia, Naval Lieutenant Lemp after his return reported that he had torpedoed this ship and that he had assumed that this had been an auxiliary cruissr. I cannot now tell you exactly whether this was the first indication which made it possible for me to understand this fact or whether it had been previously considered that under certain circumstances this ship might have been torpedoed by a German submarine. Lemp was sent to Berlin to make a report and absolute secrecy was ordered.

H0131-0049

Q. By whom?

A. The Naval Command Staff. After provisionally such an order had been made in our department, I ordered that this fact was to be removed from the log of the submarine.

Q. And that, of course, was ordered by Admiral Doenitz

A. Yes, or at least I ordered it as his deputy, by his order.

Q. Did you participate in the further handling of this particular incident?

A. Only in so far as the question was considered, whether Lemp should be punished. As far as I can recollect, the Supreme Commander took disciplinary action and punished him because it was held to his credit that these were the first hours after the outbreak of war when he must have been considerably excited and wouldn't have stressed the character of the ship as conscientiously as he might have otherwise.

Q. Did I understand you correctly earlier as saying that the detailed documents regarding the events of the Athenia were retained both by the flag officer of submarines and the Supreme Command of the Navy?

A. I can say that with certainty only as far as the flag officer of submarines is concerned. And there that was the case.

Q. Earlier you mentioned a second case, where a log book had been altered; which case was that?

H0131 - 0050

A That incident was as follows: A German blockade breaker of German origin, that is to say, a merchant vessel, which was coming back from Japan, was torpedoed in the North Atlantic in error by a German submarine and sank. This fact was left out of the log.

Q This case, therefore, was only one of keeping secrecy before German departments; is that right?

A Yes. The British had heard about the case from lifeboats which they found and, as as far as I know, the fact was not to become known to other members and blockade breaking vessels.

Q Documents have been submitted to the Tribunal by the defense, according to which, until the autumn of 1942, German submarines were carrying out rescues, as far as that was possible without an impediment to the safety of the submarine and without interfering with the task that had been given. Does this correspond with your own experiences?

A Yes.

Q I should now like to put a few questions to you regarding the so-called Laconia order which still requires clarification. I'm referring to document GB-199. As you know, the Prosecution are calling this order an order to kill survivors. Who formulated this order?

THE PRESIDENT: Where is it?

DR. KRANZBUEHLER: It is in the document book of the Prosecution on page 36, Mr. President.

A I cannot now tell you that for certain. Generally speaking, such an order was arranged and discussed between the supreme commander, the first staff officer, and myself, and a decision was made by the supreme commander just how it was to be worded; and then one of us would draft it and formulate it. It is perfectly possible that I, myself, worded this order.

Q But, at any rate, Admiral Doenitz signed it, didn't he?

A That must be the case, yes.

Q Admiral Doenitz thought that he could remember that youand Captain Hessler were opposed to this order. Can you, too, remember this, and, if so, why were you against it?

A I cannot recollect that.

Q What was the sense and the aim of the order?

A It is clearly contained in it. It meant that an attempt to

H0131-0051

rescue was prohibited.

Q Why wasn't that forbidden with reference to the standing war order No. 154, which appeared--

THE PRESIDENT: Surely a written order must speak for itself. Unless there is some colloquial meaning in a particular word used in the order, the order must be interpreted according to the ordinary meaning of the words.

DR. KRANZBUEHLER: I was not proposing to go into the question any further, Mr. President.

BY DR. KRANZBUEHLER:

Q I should like to repeat my last question now. Why, instead of issuing a new order, wasn't there simply a reference to the standing war order No. 154, which appeared during the winter of 1939 to '40?

I mean the order, Mr. President, which has the number GB-196, and which appears on page 33 of the document book of the Prosecution.

You remember that order, don't you? I've shown it to you.

A Yes, I do. That order at the time of the Laconia order had already been cancelled. Apart from that, a reference to an earlier order would have lacked the lively character which orders should have.

Q Do you mean by that that the Naval Staff did as a matter of principle not issue orders by referring to earlier orders?

A That was avoided whenever possible; that is to say, generally always.

Q Will you explain to me now why that order came out as secret command matter, as top secret?

A The order appeared at the end of an operation and action which nearly cost us two boats, and it contained a severe reprimand for the commanders in question. If such a severe reprimand was given, then it wasn't as I have it, to make it unknown to anyone, apart from the supreme command and the senior staff officers; that wasn't our custom.

THE PRESIDENT: Which is the severe reprimand?

Q Please, will you explain where this severe reprimand of that command is contained?

H0131-0052

A It must be understood in connection with what happened before and in connection with what has been prohibited here. The sentence "Rescue is against the most primitive demands" containes it, and it is contained in the hardness which is demanded and in the statement that commanders are being accused of being soft-hearted.

Q Does this mean that the commanders were accused of having risked their boats in connection wit the action of the Laconia and that

H0131 - 0053

they were endangering their boats?

A Yes, and that during the action they had repeatedly had the necessity or warlike behavior pointed out to them.

Q After the capitulation you have been interrogated regarding thir order You have told me so. You couldn't remember its exact wording to start with. How isvit possible that you couldn't remember such an order?

A There were certain orders which were to be kept in summary files and which, on the strength of that, one used to see them again and again. This order however, did not come amongst those. After it had been issued and until the end of the war, I never saw it again.

Q What did an order have to look like? What did its exterior have to loo like if it had to come into such a collection?

A It had to be current order or some reminder or reprimand.

Q What that contained in the order concerned?

A It would be found in the heading of the order in question, and in this case that isn't so.

Q The fact that neither the repeater nor wireless message is at the heading of this order in fact would indicate that it didn't come into that particular collection of orders?

A Yes.

Q But then how is it possible that Captain Moehle, and apparently until the end of the war, did give lectures on this order?

A Captain Moehle had access to all wireless messages which were issued by the flag officer of submarines. He had the privilege of using these wireless messages for the collection of material which he needed for the instructions given tocommanders about to sail, no matter whether this order was headed as a new one or a reminder order. So that, apparently, he had this particular message amongst the material which he used to instruct commanders.

Q Did Moehle ask you about the correct interpretation of that order at any time?

A No.

Q Did you ever hear of any interpretation from any other source, accordin to which this order was meant to say that survivors should be shot?

H0131 - 0054

A No.

Q According to your own experiences, could you judge whether this order has had any practical results or could have had any practical results on the loss of allied sailors?

A That's very difficult to judge. At that time something like eighty per cent of all submarine attacks took place under such conditions or may have taken place under such conditions which made rescue impossible. That is to say either there were convoys or these attacks took place very near the coasts.

H0131-0055

Approximately 12 captains and engineers were brought back as prisoners by submarines. Whether rescuing attempts were possible in all other cases is something which cannot be said for certain. Quite probably, the situation was that the Allied sailors in the lifeboats felt safer than, for instance, aboard a submarine. They were probably glad when, after attacking, the submarine disappeared.

The fact that the present of the submarine meant danger is proved by the case of the Laconia itself, because during resuing attempts two submarines were attacked by aircraft with bombs.

I think that it is quite uncertain whether this order had effect in one direction or the other.

Q. What do you mean, "one direction or the other"?

A. I mean whether it meant an increased or decreased number of losses amongst enemy seamen.

Q. There is one trend of thought which I haven't quite understood. You l pointed to the fact that there were 12 captains and chief engineers who had be made prisoners after this order was issued. Do you mean by that that only in some few cases was it possible, without endangering the submarine, to carry ou the order that such officers whould be taken out of the lifeboats?

A. That it was only in these cases is too strong an expression, but it w give you an indication regarding the number of cases where it was possible.

Q. I shall now show you the wireless message which went to Naval Lieuten Schacht. It is in the British Document Book of the Prosecution on page 36. This message, too, was made a top secret command order. What reason existed for that?

A. It is emphatically a severe reprimand for the commander.

Q. How far was that reprimand justified? Schacht hadn't had any instruc ions previously regarding the rescuing of survivors?

A. No, but it had been assumed that it was clear to submarines that in t first place it was important that Allies should be rescued and saved to becom prisoners. Apart from that, during actions which had happened, there had been several indications that commanders should be particularly cautious. Afterwar

H0131-0056

came Schacht's report from which it appeared at the time that he had infringed just these orders.

Seen retrospectively, Schacht's action must have taken place before the order of the BDU, so that at least some part of the accusations against him weren't justified.

Q. After this order of September 1942, were there still rescues carried out by submarines in certain cases?

A. Yes.

Q. Did the Flag Officer Submarines object to these rescues?

A. I have no recollection of that.

Q. To your knowledge, did German submarines deliberately kill survivors?

A. The only case of which I heard after capitulation is that of Naval Lieutenant Eck. On one occasion, we had heard an enemy broadcast about that, which indicated that something of that sort had occurred.

Q. I now submit to you a document of the Prosecution, GB-203, which the Prosecution consider proof of the shooting of survivors. This is the war diar the log of the U-247, and I have printed an extract on page 74 of my document book, second volume.

This extract deals with the attack made by that submarine on a British fi ing steamer. You have already seen this log or war diary. After his return, did the commandant report on this action?

A. Yes.

Q. Did he report anything on that occasion regarding the shooting of survivors?

A. No.

Q. According to the statement of a survivor by the name of McAllister, a fishing steamer, the Moren Mary, had a gun aboard. Do you know whether fishi steamers had mounted guns fore or aft?

A. They were almost always in the bows.

Q. Can you ascertain, on the basis of this war diary and on the strengt of your recollection of the report of the commander, just how this incident d actually happen?

A. The submarine, first of all, appeared to encounter a number of fish steamers. An attempt was made to --

THE PRESIDENT (Interposing): Is the witness trying to

H0131-0057

reconstruct thisfrom the document, reconstruct the incident?

DR. KRANZBUEHLER: I am asking him to tell us the story on the strength of his own memory and on the strength of the report of the commander, and I am asking him to tell us just how much he remembers while he is looking at the diary.

THE PRESIDENT: Well, he hasn't said whether he ever saw the commander.

DR. KRANZBUEHLER: Oh yes, Mr. President.

THE PRESIDENT: Well then, all he can tell us is what the commander told him.

DR. KRANZBUEHLER: Yes.

THE PRESIDENT: Well, have him do that then.

DR. KRANZBUEHLER: Yes, sir.

BY DR. KRANZBUEHLER:

Q Please, will you tell us in accordance with your recollection, what you can tell us after having seen the diary.

THE PRESIDENT: Wait a minute. If he remembers anything about what the commander told him, he can tell us that, but the diary speaks for itself and he can't reconstruct it out of that. He may tell us what he remembers of what the officer said.

DR. KRANZBUEHLER: Very well, sir.

BY DR. KRANZBUEHLER:

Q Please, will you speak from memory.

A This was the report of the commander. He said that in extreme proximity to the coast, considering the conditions of the time, he sighted a group of fishing steamers, and after having failed in his attempts to torpedo them, he sank one of them with gunfire. That was particularly remarkable because, first of all, this incident occurred so close to the coas and also because the commander risked this artillery fight in spite of the fact that other vessels were in the neighborhood.

Q Were these other ships also armed fishing steamers?

A It had to be assumed at the time that every fishing steamer was arme

H0131-0058

Q The witness McAllister was of the opinion that the submarine surfaced 50 yards from the fishing steamer. According to your recollection, and considering your expdrience, is this possible?

A I can't recollect the details, but it is out of the question that any submarine commander would do that.

Q McAllister's evidence also states --

THE PRESIDENT (Interposing): Wait a minute. Dr. Kranzbuehler, the Tribunal thinks that the witness oughtn't to express opinions of that sort. He ought to give us his evidence of any facts which he has. He is telling us that in his opinion it is impossible that a naval commander would ever bring his submarine up within 50 yards of another vessel.

DR. KRANZBUEHLER: Yes.

THE PRESIDENT: That is not a matter for him to say.

DR. KRANZBUEHLER: Mr. President, I was going to ask the witness next whether German submarines were shooting shells filled with wire, as Witness McAllister had stated. Is that a question which you will permit me to put?

THE PRESIDENT: What?

DR. KRANZBUEHLER: Shells which were filled with wire.

THE PRESIDENT: Wire?

DR. KRANZBUEHLER: Wire, yes.

THE PRESIDENT: Is your question: Were submarine commanders ever furnished with wire to be used in their guns? Is that the question?

DR. KRANZBUEHLER: Not quite, Mr. President. My question would be whether German submarines were equipped with shells which were filled with wire.

THE PRESIDENT: Shells which were filled with wire?

DR. KRANZBUEHLER: Yes, that is the question I want to put.

BY DR. KRANZBUEHLER:

Q Will you answer that question, Witness.

A Such shells didn't exist at all.

Q Was this attack by the submarine on the Moren Mary reported by wireless immediately?

A Do you mean the report by the submarine?

H0131 - 0059

Q No, by the British.

A As far as I can remember, a wireless message from a British steamer was received, reporting a submarine attack in that area.

Q In the war diary there is an entry regarding a wireless at the hour of 0127. It is addressed to Matschulat, that is to you, from the commandant, and it states: "English steamer reports attack by German submarine west of Cape Wrath."

A That is the report to a submarine regarding the fact that a wireless message of a British steamer about a submarine attack in that area had been received.

Q I should now like to ask you something with reference to the Standing War Order-511. This is in Volume 1 of my document book on page 46. When I presented this order, theTribunal wasn't quite clear about the significance of what appears under Figure 2, which I shall read.

H0131-0060

"No taking on board is allowed of captains and officers of neutral ships which, according to standing order No. 101, may be sunk (e.g. Swedish ships outside of Goeteborg traffic), because internment of these officers would contravene international law." Can you first of all tell me on the basis of which experiences that figure "2" was included in the order?

A On one occasion a submarine had brought a Uruguayan officer to Germany, who had been the captain of a ship that had been sunk. We were worried that if this captain were to be released he might tell stories about what he had seen while he was interned aboard the submarine. It was for reasons of this order that difficulties of that kind should be avoided in the future. The captain from Uruguay had to be freed and was in fact freed.

Q What is the meaning of the reference to neutral ships which, according to standing order No. 101 may be sunk?

A May I please see the order for a minute? In the standing war order No. 101, the sinking of neutral ships is referred to and the following is ordered: First of all, within the blockade area, and as a matter of principle all neutral ships can be sunk with two important exceptions or, shall we say, two general exceptions. First of all, not sinkable in blockade areas with ships of certain neutral countries with which arrangements had been made regarding certain shipping channels; and secondly, not sinkable with such ships of certain neutral states of which it could be assumed that they weren't exclusively travelling for the enemy. Regarding the sinking outside blockade areas, the order was applicable according to which neutral ships could be sunk; first of all, when they weren't recognizable as being neutral and therefore had appeared as enemy vessels to the submarine in question; and secondly, if they weren't acting as neutrals.

Q As, for instance, when they were travelling in convoy?

A Yes, when they were travelling in enemy convoys, when they reported the presence of our submarines, for instance, by means of wireless.

Q Did this figure "2" mean that the captains of neutral ships were to be worse off in the future than captains of enemy ships or were they to be better off?

A This isn't a question of better or worse, it is a question of capturing. They weren't to be captured, weren't to be taken prisoners because they couldn't be kept as prisoner Whether this meant that they would be

better or worse off is at least an open question. Captains of enemy ships tried whenever possible to escape being taken along by the submarine because they probably felt safer in life-boats.

Q What do you know about orders regarding the respecting of hospital ships during the beginning of the invasion?

A At the beginning of the invasion, and as far as any other area was concerned, the order applied that hospital ships were not to be attacked. Commanders operating in the invasion zones then reported that there was very considerable traffic of hospital ships.

Q From where to where?

A Between theinvasion area of Normandy and the British Isles. The Flag Officer submarines then had an investigation made by the appropriate department to discover whether this hospital traffic in its report strength was in accordance with the comparative figures. That was confirmed.

Q What do you mean by that?

A It means that the number of hospital ships which had to be reported corresponded to the number of wounded, as we had expected. Then there was a special order stating that in the future, too, hospital ships were not to be attacked.

Q The strict respect paid to hospital ships at that stage of the war, was that in accordance with any other interests?

A At that time, we only had hospital traffic in the Baltic and there the Geneva Convention wasn't being recognized by our enemy, so that we didn't have any interest in respecting and preserving hospital shipping.

Q Do you know of a case where during this war an enemy hospital ship has been sunk by a German submarine?

A No.

Q Did it happen the other way around?

A The German hospital ship Tubingen (Tuebingen) was, I think, sunk by a British aircraft in the Mediterranean, presumably because of mistaken identity.

THE PRESIDENT: Dr. Kranzbuehler, the question of German hospital ships which were sunk isn't relevant, is it?

DR. KRANZBUEHLER: I was going to show by it, Mr. President, that the possibility of mistaken identity does exist and that in fact because of such

H0131-0061

mistaken identity, a hospital ship has been sunk. My proof is to mean therefore that you can't draw the conclusion from the sinking of a ship that it shouldn't have been sunk.

THE PRESIDENT: The Tribunal quite realizes that mistakes may be made in sea warfare. It is a matter of common knowledge. Should we adjourn now?

DR. KRANZBUEHLER: Yes, sir.

(A recess was taken.)

H0131-0062

H0131-0063

BY DR. KRANZBUEHLER:

Q. Admiral, you have known Admiral Doenitz since the year 1934, and you have known him well since that time. You had many business dealings with him during that time. Did he participate in any political activity during that period of time?

A. Before he was appointed Commander-in-Chief of the Navy, not at all, to my knowledge. As Commander-in-Chief of the Navy on occasion he gave speeches outside the Navy matters, however. He addressed dock workers. He spoke to the Hitler Youth at Stettin once. He spoke over the radio when we had an anniversary for heroes, and he spoke on the 20th of July. I remember no other occasions.

Q. Did these speeches have a direct connection to the tasks of the Navy, that is, when he addressed the Navy workers?

A. When he spoke before the ship workers, yes.

Q. And before the Hitler Jugend as well?

A. Yes.

Q. And what was the connection the?

A. At that time, as far as I recall, the speech was concerned with recruitment for the Navy.

Q. Did he select his staff officers according to ideological points of view or according to their military point of view?

A. Their military and personal capacity was the decisive point. Political considerations played no role at all.

Q. The question of whether Admiral Doenitz knew certain happenings outside the Navy, whether he had knowledge of these facts or whether he had to have knowledge, that is an important question before the Tribunal. Can you tell me in what circles he traveled?

A. Almost exclusively he remained within the circle of his own officers and officers of his own age, but, over and above that, as far as I know he had no other contacts.

Q. Does this hold true after his appointment to Commander-in-Chief of the Navy? Was there any change in that?

A. No. Then he was in contact more with people from other states, but on

H0131-0064

the whole his circle remained the same.

Q. Where did he live at that time, that is, since his assumption of the title as Commander-in-Chief of the Navy?

A. When he assumed this office, in Berlin and in the vicinity of Berlin, at the Navy headquarters.

Q. Did he live with his family, or did he live with his staff?

A. He lived with his family, but his life was with his staff for the greater part.

Q. And after the staff, in the autumn of 1943, was transferred to Berlin to the so-called underground corridor --

A. At that time in the headquarters itself, but his family lived there for part of the time as well, but official conversations for the most part took place until late in the evening.

Q. And that means from that period of time on he lived in a Marine officer's quarters?

A. Yes.

Q. You, among all officers, could from a close proximity follow the course of the Admiral's life. Can you tell me what his motives were, that is, in your opinion, which were the decisive motives when he gave out his military orders?

THE PRESIDENT: You can't speak about the motives of people. You can't give evidence about other people's minds. You can only give evidence of what they said and what they did.

DR. KRANZBUEHLER: Mr. President, I do believe that an officer who lived with another officer for years has a vertain knowledge of the motives, basing his knowledge on the actions of the officer and of what the officer told him. However, perhaps I mau put my question in a little different way.

THE PRESIDENT: He can give evidence about his character, but he can't give evidence about his motives.

DR. KRANZBUEHLER: Then I shall ask him about his character, your Honor.

H0131-0065

BY DR. KRANZBUEHLER:

Q. Can you tell me, please, whether Admiral Doenitz when he formulated his orders and in all of his actions showed egotistical motives that came to your knowledge?

THE PRESIDENT: Dr. Kranzbuehler, that is the same thing again, isn't it? That is the same question again really.

DR. KRANZBUEHLER: I beg your pardon, Mr. President. I meant it to be a different question.

THE PRESIDENT: Nobody is charging him with being egotistical or anything of that sort. He is charged with the various crimes that are charged against him in the indictment.

DR. KRANZBUEHLER: Then I shall ask a question regarding the opinion of the Prosecution.

BY DR. KRANZBUEHLER:

Q. The Prosecution judged Admiral Doenitz as cynical and opportunistic. Is that in line with your own judgment?

A. No.

Q. How would you judge him?

A. I would judge him to be a man who wanted to do only his work and his duty, and who was interested about his arms and about the men who were carrying these arms.

DR. KRANZBUEHLER: Mr. President, I have no further questions to this witness.

THE PRESIDENT: Do you other members of the defendants' counsel want to ask any questions?

H0131 - 0066

(No response)

The cross examination.

COLONEL PHILLIMORE: My Lord, might I first mention the documents that I put in the cross examination this morning, or rather it was a document which had been in before. It was D-658, GB-229.

THE PRESIDENT: What was the letter. G or D?

COLONEL PHILLIMORE: D, my Lord, the D series. That is the document dealing with Bordeaux, and there was a dispute as to whether it was from the Bordeaux Commando Raid, The dispute was as to whether it was from the SKL, that is the Naval War Staff Diary, or from a war diary of some lower formation. My Lord, I have had the matter confirmed with the Admiralty, and I will produce the original to defense counsel.

It comes from the SKL War Diary, Tagebuch Der Kriegsleitung, and it is from one Abteilung, Teil A---that is part A---for December 1942. So it is from the War Diary of the Defendant Raeder and the witness.

CROSS EXAMINATION

BY COLONEL PHILLIMORE:

Q You have said, Witness, that you don't recollect protesting against this order of the 17th of September 1942.

A Yes.

Q I will try and refresh your memory. Would you look at a document, D-865?

COLONEL PHILLIMORE: My Lord, that is an extract from an interrogation of Admiral Doenitz on the 6th of October. I should say that the record was kept in English, and, therefore, the translation into German does not represent necessarily the Admiral's actual words.

BY COLONEL PHILLIMORE:

Q Would you look at the second page of that document at the end of the first paragraph. It is the end of the first paragraph on page 207 in the English text. The Admiral is dealing with the order of the 17th of September 1942, and in that last sentence in that paragraph he says:

"I remember that Captain Godt"---the spelling in English was wrong---"Captain Godt and Captain Hessler were against this telgram. They told me that expressly because they said "That can be misunderstood," But I said "I must tell that now to these boats to prevent the losses in this one percent. I must give them a

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reason so they don't feel obligated to do that."

Do you remember protesting now, saying "That can be misunderstood"?

A No, I do not recall that.

Q And a further extract, on page 3 of the English, page 2 at the bottom of the page of the German:

"Thus I sent the second telegram in order to avoid that I should have futur losses. The second telegram happened on my instigation. I am completely and personally responsible for it, because Captains Godt and Hessler both expressly stated that they considered the telegram as ambiguous or liable to be misinterpreted." Do you remember that now?

A No, I do not recall that.

Q Would you look at a further statement to the same effect, on page 5 of the English, first paragraph; page 4 of the German text, third paragraph.

He has been asked the question as to why it was necessary to use the language that I read to you before--my Lord, that is the bottom of page 4: "--that his most primitive demands for the conduct of warfare by annihilating ships and crews are contradicted by efforts to rescue members of the crews." It is the last clause of the first sentence, He answers:

"These words do not correspond to the telegram. They do not in any way correspond to our actions in the years of 39, '40, '41, and 42, as I have plainly shown you by the Laconia incident. I would like to emphasize once more that the Captains Godt and Hessler both were violently opposed to the sending of the telegram."

Do you still say that you don't remember protesting against the sending of that telegram?

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A. I have stated repeatedly that I do not remember this.

Q. I did not get that.

A. I have stated repeatedly that I do not remember this.

COLONEL PHILLIMORE: My Lord, did you get the English? I am afraid I did not.

THE PRESIDENT: Yes.

THE INTERPRETER: The witness said, "I have stated repeatedly that I do not remember this".

BY COLONEL PHILLIMORE:

Q. I will show you one more extract, the document D-866, which will become GB-459. That is a further interrogation, on the 22nd of October.

The first question on the document is: "Do you consider this order to be contract to the prize rules of the German Navy pursued in the beginning of the war?"

And the last sentence of the first paragraph of the answer is: "Godt and Hessler told me, 'Don't make this wireless; you see, one day there can be a wrong appearance about it. There can be a misinterpretation of that'."

You don't remember using those words?

A. No.

Q. You were an experienced staff officer, were you not?

A. Yes.

Q. You knew the importance of drafting an operational order with absolute clarity, did you not?

A. Yes.

Q. These orders you were issuing were going to young commanders, between 20 and 30 years of age, were they not?

A. 20 years I would say was too young. They might have been at the end of their twenties, perhaps.

Q. Yes. Do you say that this order is not ambiguous?

A. Yes. Perhaps if you take one sentence out of the context, you might have some doubt, but not if you read the entire order.

Q. What was the point of the words, "Rescue runs counter to the rudimenta

H0131 - 0069

demands of warfare for the destruction of enemy ships and crews."?

A. (No response)

COLONEL PHILLIMORE: Show it to him, will you?

(A document was handed to the witness.)

BY COLONEL PHILLIMORE:

Q. What was the point of those words, if this was merely a non-rescue order?

A. It was the reason and the motivation for the rest of the order, and a coordination of ships and crews which were fighting against our U-boats.

Q. You see, all your other orders were so clear, were they not?

Have you got the defense documents there in the witness box?

A. I believe yes.

Q. Look at the defense document, Doenitz Number 8 on page 10.

A. I do not have those documents before me.

(A document was handed to the witness.)

BY COLONEL PHILLIMORE:

Q. It is on page 10 of that book. Let me just read you the second paragraph:

"U-boats may attack at once enemy merchant vessels on which armament is recognized without doubt, respectively the armament of which is announced by the sea-warfare command on the basis of unobjectionable evidence. As far as circumstances permit, measures shall be taken for the rescue of the crew, if the possibility of endangering the U-boat is excluded."

Now, no commander could go wrong with that order, could he? It is perfectly clear.

Look at another one, D-942, at page 13. It is the last paragraph of the order, on Page 15. Now, this is a non-rescue order.

Have you got it? Paragraph E, Standing Order 154:

"Do not rescue crew members nor take them along, and do not bother about boats of ships. Weather conditions and proximity of land are of no consequence. Concern yourselves only with the safety of your own boat, and try to

H0131-0070

achieve additional successes as soon as possible.

"We must be hard in this war. The enemy started it in order to destroy us; and we have to act accordingly."

Now, that was perfectly clear, was it not? That was a non-rescue order?

A. It was just as clear as the three other orders about whcih we are concerned.

Q. Look at one or two more and then let me come back to that order; Page 45, another order:

"Order from Flag Officer, U-boats", -- reading the third line -- "to take on board captaions with their papers of ships sunk, if it is possible, without endangering the boat or without impairing the fighting capacity".

It is perfectly clear to anybody exactly what was intended, is it not?

A. That is not an order at all; it is just an extract from the War Diary

Q. Yes. Reciting the words of the order, them, on the next page in Paragraph 4:

"Try under all circumstances to take prisoners if that can be done without endangering the boat". -- again, perfectly clear.

Look at the next page, page 47, paragraph 1 of your order of the 1st of June, 1944, the last sentence:

"Therefore, every effort must be made to bring in such prisoners as far as possible without endangering the boat."

Now, you have told us that this order of the 17th of September, 1942, was intended to be a non-rescue order; that is right, is it not?

A. Yes, certainly.

Q. I ask you again, what was meant by the sentence, "Rescue runs counter to the rudimentary demands of warfare for the destruction of enemy ships and crews."?

A. That is a reason for the rest of the order, and it deals with ships and their crews which had been armed and had to fight U-boats in order to give them equal advantage.

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Q. Why do you speak about the destruction of crews if you do not mean the destruction of crews?

A. We are concerned with the fact of whether the ships and their crews were to be destroyed, which is something entirely difference from the destruction of the crews after they had not been on the ship any longer.

Q. And that is something entirely difference from merely not rescuing the crews; isn't that a fact?

A. I do not quite understand that question.

Q. Destruction of crews is quite different from non-rescue of crews?

A. Destruction when the ship and crew are together.

Q. You are not answering the question, are you? But if you want it again, Destruction of crews is quite different from non-rescue of crews?

A. The destruction of the crews is different from the non-rescue of survivors, yes.

Q. Were those words merely put in to give this order what you described as a lively character which an order should have?

A. I cannot give you the details, I have already said that I do not remember the antecedents of this order.

THE PRESIDENT: Colonel Phillimore, the Tribunal has already said to the

H0131-0072

witness that the document speaks for itself.

COLONEL PHILLIMORE: Yes.

BY COLONEL PHILLIMORE:

Q Would you just look at the next document in the prosecution book; that is D-663, on the last sentence of that document? In view of the desired destruction of ships' crews, are you saying that it was not your intention at this time to destroy the crews if you could?

A I believe we are talking about survivers.

Q Well, it is the same thing, to some extent, is it not, since crews once they are torpedoes, become survivers?

A Then they would be survivers, yes.

Q Will you now answer the question? Was it not your intention at this time to destroy the crews or survivers if you like, if you could?

A If you mean the survivers, we are to distinguish between the shipwrecke

Q If you are not prepared to answer the question, I will pass on.

Do you remember the case of Kapitaen leutnant Eck?

A About this case of Kapitaen-leutnant Eck, I received my knowledge from American and British officers here.

Q Do you know that he was on his first voyage when his U-boat sank the "Filius" and then machine-gunned the survivers? Do you know that?

A Yes, yes.

Q He had set out from the 5th U-boat flotilla at Kiel where Moehle was briefing the commanders, had he not?

A It must have been so.

Q Yes. Now, if instead of taking the whole blame upon himself for the action which he took, if he had defended his action under this order of the 17th of September 1942, are you saying that you could have court-martialled him for disobedience?

A It might have been possible.

Q In view of the wording of your order, do you say that?

A That would have been a question which the Court-Martial would have had to decide. Eck, as far as I know, did not refer to this order.

Q Can you explain to the Tribunal how the witness Moehle was allowed to go on briefing that this was an annihilation order, from September 1942 to the end of the war.

H0131-0073

A I do not know how he came about to interpret this order in such a way. He certaibly did not ask me about this, in any event.

Q You realize that he is putting his own life in great jeopardy admitting that he briefed as he did, don't you?

A Yes.

Q You also know, don't you, that another commander he briefed was subsequently seen either by yourself or by Admiral Doenitz before he went out?

A Yes.

Q Again when he came back?

A In general, yes.

Q In general. Are you seriously telling the Tribunal that none of these officers who were briefed that this was an annihilation order, that none of them raised the question either with you or with Admiral Doenitz?

A With reference to this order nothing was said about this, in any event.

Q But I suggest to you now that this order was very carefully drafted to be ambiguous; deliberately; so that any U-boat commander who was prepared to behave ashe did was entitled to do so under the order. Isn't that right?

A That is an assertion, yes.

Q And that you and Hessler, you tried to stop this order being issued?

A I have already said that, that I do not remember this.

COLONEL PHILLIMORE: No further questions.

THE PRESIDENT: Is there any other cross-examination? Do you wish to examine, Dr. Kranzbuehler?

REDIRECT EXAMINATION

BY DR. KRANZBUEHLER:

Q Do you know that Captain Moehler has testified before this Tribunal that he only informed very few officers about his interpretation of the Laconia order?

A I read that in the affidavit which Moehler made before British

H0131-0074

officers last year.

Q Do you know that Moehle testified here personally that he t talked neither with Admiral Doenitz nor with you nor with Captain Hessler about his interpretation of the Laconia order, even though he was repeatedly in your staff?

A That I know.. Whether from Moehle's affidavit of last year or from another source, that I cannot tell you at this point.

Q The testimony of Admiral Doenitz has been put to you that you and Captain Hessler were against the Laconia order, yet you state that you do not remember this contradiction. Do you consider it possible that Admiral Doenitz had overemphasized your objection to this order, in order to take the complete responsibility for himself?

THE PRESIDENT: Wait a minute. I do not think you can ask him that question, Dr. Kranzbuehler, whether it is possible that the Admiral had over-emphasized what he said.

DR. KRANZBUEHLER: If I am not permitted to put this question I have no further questions, Your Honor, to this witness.

THE PRESIDENT: The witness can retire.

DR. KRANZBUEHLER: Then with the permission of the High Tribunal I would like to call Captain Hessler as my next witness.

BY THE PRESIDENT:

Q Will you state your full name?

A Gunther Hessler.

Q Will you repeat this oath after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and will add nothing.

(The witness repeated the oath).

THE PRESIDENT: You may sit down.

DIRECT EXAMINATION

BY DR. KRANZBUEHLER:

Q Captain Hessler, when did you enter the Navy?

H0131 - 0075

A In April of 1927.

Q What was your grade?

A Korvetten Kapitaen.

H0131-0076

Q You are related to Grand Admiral Doenitz. Is that correct?

A Yes. In November of 1937 I married his only daughter.

Q When did you enter the U-boat service?

A In April of 1940 I started my U-boat training.

Q At that time during your training were you informed that you should act according to the Prisenscheibe?

A Yes. I was instructed such at that time.

Q Was this matter which I am just putting to you now, was that submitted to you?

A Yes. This Scheibe was submitted to me and I was instructed about it.

Q Will you tell the Tribunal briefly just what the purpose of this Scheibe is?

A Here we are concerned with a system of discs with which, through a simple mechanism, in the very shortest period of time possible we can determine how neutral and how other ships have to be dealt with. For instance, whether the neutral vessel has contraband, can be sunk; or whether it has to be passed -- whether we have to let it pass.

This disc had a further great advantage that at the same time one could read on what paragraph of the prize law this case was to be found; and through that it was possible at the time of the investigation of a merchant ship to limit the time to the shortest possible time.

Q That means the disc had the character of a juristic adviser to the Commander?

A Yes.

DR. KRANZBUEHLER: Now I am submitting to the Tribunal this disc as Exhibit Doenitz Number 95.

BY DR. KRANZBUEHLER:

Q In your training were you instructed about your behavior toward shipwrecked survivors?.

A Yes. The rescuing of survivors in the naval action is a matter of course and is to be carried through as fas as military measures permit. In U-boat warfare rescue of survivors, that is, the taking on board of the entire crew, is utterly impossible, for the space conditions of the U-boat do not permit any such action. The carrying through of other measures, such as, for instance, the

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approaching to life-boats, the picking up of those who are swimming and the taking of them into the life-boats, giving provisions and water, is, on general principle not possible, fo the endangering of the U-boatsis in every part of an operational zone so great that you cannot carry out any of these measures without endangering your boat too much.

Q Soon after this course of instruction you took your cruise as Commander from when to when?

A From October 1940 until November 1941.

Q In what areas did you operate?

A South of Iceland, West of the North Channel, in the region between the Azores to Bergen, and the area west of Friedland.

Q What success did you have as against merchant shipping?

A I sunk 21 ships with more than 130,000 tons.

Q You have the knight's Order?

A Yes.

Q How did you act toward the survivors of these crews of the ships sunk by you?

A In most of the cases the situation was as follows: That I immediately left the place of sinking; that at the place of sinking I had to go away from this point of sinking, for my danger through hostile sea or air forces required me to do so. In two cases the danger was not quite as large. I could approach the life-boats and help them.

Q And what ships were concerned in this?

A Two Greek ships were involved in this case, the Papalemos and Pandias. These were the two ships.

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Q How did you help the life boats?

A First of all I told the ship-wrecked their exact position and told them how they could reach land in their life boats. In the second place I gave them water, which is very, very important for survivors in tropical regions. Then in one case I rendered medical aid for the few who were wounded.

Q Did personal experiences with ships which had been sunk play a role too in how to surface while you were rescuing?

A Yes, all experienced U-boat Commanders had a justified suspicion toward every merchant-man and it's crew no matter how innocent they might appear.

In two cases this suspicion saved me from my own destruction.

In the case of the Steamer Kalchas, a ten thousand ton British ship, which I torpedoed North of Cape Byrd. The ship had stopped after it had been hit by the torpedo. The crew had left the ship and was in the life boats and it seemed to be sinking. I was thinking whether I should surface in order to save the crew, tell them how to reach land, and ask them if they needed water. Then the feeling, I might say it was more or less unexplainable, kept me from doing so. I lifted the periscope and at the same moment when the periscope extended quite a good deal above the surface of the water, this steamer which seemed to have been abandoned from previous experiences, the sailors manned the guns, and the sailors who had kept themselves concealed underneath the guns and behind the railing, then at the closest possible range they opened fire on my periscope so that I had to take all necessary precautions. The hit close to the periscope but could not endanger me.

In a second case, in the case of the Motor Ship, Alfred Jones, which I torpedoed, that ship also seemed to be sinking. I wondered whether I should surface, when in one of the life boats I saw two British sailors who were in perfect uniform,

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spotless uniforms, and that, of course, made me suspicious. I saw the ship at close range. I would judge 50 to 100 meters and I took a good look at the ship and I determined that it had not been abandoned, but in all possible spots of concealment sailors were still present. When I torpedoed the ship these concealments burst, and I saw that the ship had at least four to six guns of ten to fifteen millimeter strength, a large number of depth charges and installations, and anti-flack was there also behind the railing. Just on the strength of the coincidence that the depth charges had not been let go, that was the reason I escaped destruction.

As a matter of course, after an experience like that, I was less concerned with the crews and survivors than with endangering my own ship, and with something which was entirely clear to me in the future.

Q When did you enter the Staff as the Commander of the U-boats?

A In November, 1941.

Q You were the first officer of that staff, what was your task as Commander? You were to secure and instruct them as to all orders?

A Yes, I did that.

Q And what was the relationship between the instructions you gave and the instructions by the Chief of the Flotilla had to give, such as Moehle?

A The Commandant which I had to instruct received a broad outline about all questions as to their actions and demeanor at sea. The Chief of the Flotilla had the instructions or mission to ascertain that all Commandants shoul know of all recent orders of the Commander in Chief of the U-boats and would have them at hand. Therefore, I might say almost it was a limited instruction.

Q In this complete course of instructions were the

H0131-0080

Commandants told about their action toward survivors of the ship-wrecked?

A Yes, and perhaps in the same manner in which the instruction had been in the U-boat school at my training.

Q Was there any change in the manner of instructions after the Lakonia order of September, 1942?

A Yes, I told the Commandants briefly of the incident and told them: "Now, you are no longer to decide whether the situation in the open sea will permit your rescue only. From now on in it is prohibited to carry through rescue measures."

Q Do you wish to say that during the entire balance of the war, that is, two and a half years, the Commandants were told about the Lakonia incident, or was it just immediately after this case?

A I would say at the most until January, 1943. After that time there was no more talk about that.

Q That means about the incident? That is about the Lakonia case? What about the orders issued as a result of it?

A Yes, there was a specific order not to rescue any longer.

Q Did the Commandants at any time have an order or suggestion from you or from one of your crews to shoot at survivors?

A Never.

Q Were the Commandants instructed by you about the order that captains and leading engineers, if possible, were to be taken along?

A Yes.

Q In those instructions was it emphasized that this was to take place only when it could be done without endangering the ships?

A Yes.

H0131-0081

Q Do you know about the incident of the U-boat 386, which shot down some fliers in the Bay of Biscay?

A I remember this incident very distinctly.

Q Then you also know that this incident took place in the Autumn of 1943?

A Yes.

Q Did the Commander in Chief of the U-boats to this incident represent the opinion that the U-boat Commander should have shot at the fliers which were left?

A No, on the contrary he was put out about this; that the aircraft personnel had not been brought along by the U-boat crew.

Q Would any other agency of the staff differ from you, or was your opinion represented in the staff?

A No, we knew every one in the staff, and it is out of the question that any member of the staff had a deviating opinion.

Q Korvetten Kapitain Moehle testified that he asked as to the significance of the Lakonia decree with Korvetten Kapitain Kupisch of your staff and then Kapitain Kupisch told him about the incident of the U-386, and told it in such a way that the Commanders of the U-boats demanded the shooting of the survivors?

A That is not possible.

Q Why not?

A Because Kupisch in July, 1943, left Furth with a U-boat and did not return from that mission. The incident with U-386 took place in the autumn of 1943, and that was later

Q Kapitain Moehle in his first statement left the opinion or the possibility that this story about U-386 might have come from you, did you discuss this matter with him?

A No.

Q Can you say that with certainty?

H0131-0082

A With absolute certainty.

Q Did you hear about the interpretation which Kapitain Moehle gave to this Lakonia order?

A After the collapse, that is, after the end of the war, and then through a British Officer.

Q How do you explain the fact that of the very few officers who were instructed by Moehle, none discussed the interpretation of this order with the Commander in Chief of the Submarines?

A I have only one explanation for this and that is that these officers considered the interpretation of Kapitain Moehle completely impossible, and that it did not agree with the interpretation or opinion of the Commander in Chief of the Submarines.

Q Therefore, they could not require a clarification?

A No, they did not require a clarification.

Q The Prosecution's accusations againstGrand Admiral Doenitz are to a large part based on extracts from the War Diary of the SKL and of the commanders of the U-boats, documents which are in the possession of the British Admiralty. How is it possible that all of this data is in the possession of the Admiralty and that is in toto?

A It was the wish of the Grand Admiral that the War Diaries of theU-boats and of the commander-in-chief of the submarines, which were in the Navy archi ves, should be saved and should not be destroyed.

Q Did he tell this to you?

A Yes, in this way; when I told him that our own data in the staff had been completely destroyed.

Q Did he have any reason for his action as to why he did not want the destruction of the archives?

A He wanted this data and the archives saved for after the war for the Navy to carry on and that in its warfare it had n thing to conceal.

Q Is that your opinion or is that the opinion which Admiral Doenitz expressed to you?

A He told me we have a pure conscience.

Q Immediately after the capitulation you were repeatedly interrogated as to the carrying out of the U-boat warfare and on those occasions the question was put to you as to the senior officers whether the submarine command was accused of criminal actions.

A Yes.

Q And what answer did you have?

A Without hesitancy the answer no.

DR. KRANZBUEHLER: I have no further questions, Mr. President.

THE PRESIDENT: Does any defendant's counsel wish to ask any questions? The Prosecution?

COLONEL PHILLIMORE: With the Tribunal'spermission I would not propose to cross-examine and ask leave to adopt my cross-examination of the last witness because it is the same ground substantially.

THE PRESIDENT: Very well.

Does any other Prosecutor wish to cross-examine?

Yes, Dr. Kranzbuehler?

H0131-0083

DR. KRANZBUEHLER: I have no further questions of the witness, Mr. President.

BY THE PRESIDENT:

Q In the interrogationof the defendant Doenitz he said that Godt and Hessler, that is you, is it not?

A Yes.

Q -- told him:

"Don't make this wireless. You see, one day there can be a wrong appearance about it, there can be a misinterpretation of that."

Did you say that?

A I do not remember this. We very frequently, as consulting officers, when orders were drafted we had to contradict and did contradict but I donot remember in this case whether Admiral Godt and I said that.

Q Then later in his interrogation the defendant Doenitz said:

"I am completely and personally responsible for it (that is that order) because Captain Godt and Hessler both expressly stated that they considered the telegram as ambiguous or liable to be misinterpreted."

Did you say that this telegram was ambiguous or liable to be misinterpreted?

A I do not remember that point. I do not believe that I considered this telegram to be ambiguous.

Q And lastly the defendant Doenitz said:

"I would like to emphasize once more that Captains Godt and Hessler both were violently opposed to the sending of the telegram."

Do you say you were not violently opposed to the sending of the telegram?

A It is possible that we were against the sending of this wire for we did not consider it necessary once again to refer to it.

Q Did you say anything to the defendant Doenitz about this telegramat all?

A At the drafting of this telegram this was discussed. In the course of time many hundreds of wireless messages were drafted by us so that it is impossible to remember just what was said at each time.

Q You began your answer to that question:

"At the drafting of this telegram --."

Do you remember what happened at the drafting of this telegram?

H0131-0084

A I can remember only that in the course of the so-called "Lakonia" incident we sent many wireless messages and received many in return; that many wireless messages were drafted; that beyond that the operation of U-boats was going on in the Atlantic so that I cannot recall details at the drafting of this wireless.

Q You said now that it was possible that you and Admiral Godt were opposed to the sending of this telegram. Is that your answer?

A It is possible but I cannot say that.

THE PRESIDENT: Very well Dr. Kranzbuehler, the witness can retire.

DR.KRANZBUEHLER: Mr. President, this morning I had already advised the Prosecution that I will not wish to call the fourth witness and that is Admiral Eckhardt. Therefore, my examination of witnesses has been concluded.

THE PRESIDENT: And that concludes your case for the present?

DR. KRANZBUEHLER: The conclusion of my case but with the permission of the Tribunal I would like to clarify one question which deals with documents.

The Tribunal has refused all documents which refer to the topics counterband, control ports and "Navicertsystem". These questions are of great significance for my case as I will present it later on.

May I interpret the resolution of the Tribunal to the effect that these documents may not be used now as proof but that later on in my legal exposition I may have permission to use these?

THE PRESIDENT: Dr. Kranzbuehler, the Tribunal thinks that is a question which may be reserved until the time comes for you to make your speech.

DR. KRANZBUEHLER: Thank you , Mr. President. Then I have concluded my case.

THE PRESIDENT: We will adjourn now.

(The Tribunal adjourned until 15 May, 1946 at 1000 hours.)

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